

SENATE BILL 883

By Ketron

AN ACT to amend Tennessee Code Annotated, Section 55-3-138, relative to manufactured homes affixed to real property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-3-138, is amended by deleting the section in its entirety and by substituting instead the following:

Section 55-3-138.

(a) If a manufactured home is affixed to a parcel of real property, as provided in the affidavit of affixation, and the legal ownership of the manufactured home and real property is identical, upon the recording of the affidavit of affixation as provided in subsection (c), the owner shall surrender the certificate of the title or the manufacturer's statement or certificate of origin of such manufactured home to the department for cancellation by providing the following documentation:

(1)

(A) The certificate of the title to the manufactured home, or each separate certificate of title if the manufactured home consists of more than one (1) unit, duly endorsed or otherwise showing the release of any lienholders noted on the certificate of title; or

(B) If the manufactured home is a new home not covered by a certificate of title, the manufacturer's statement or certificate of origin; or

(C) If the manufactured home is not covered by a certificate of title and the owner of the manufactured home, after diligent search and inquiry, is unable to produce the original manufacturer's certificate of

origin for the manufactured home, a statement to that effect in the affidavit of affixation;

(2) A copy of the deed or other instrument of conveyance of legal ownership to the real property to which the manufactured home has become affixed conveying a fee simple or other legal ownership interest in the subject real property and which has been certified by the office of the register of deeds of the county in which the real property is located; and

(3) A certified copy of an affidavit of affixation executed by all persons who have such a legal ownership interest in the manufactured home and the real property to which the manufactured home has become affixed stating that the manufactured home is affixed to the real property described in the deed or other instrument which has been duly recorded in the office of the register of deeds of the county in which the real property and manufactured home is located.

(b)

(1) The affidavit of affixation shall contain the following information:

(A) The names of all of the legal owners of the manufactured home and real property to which the manufactured home has become affixed;

(B) The year built, manufacturer's name, model name or model number, serial number, length and width of the manufactured home;

(C) The physical address of the real property to which the manufactured home has become affixed;

(D) The legal description of the real property to which the manufactured home has become affixed;

(E) A statement that the manufactured home is to be taxed as an improvement to the real property;

(F) A statement that:

(i) The manufactured home is covered by a certificate of title that the owner shall surrender to the department;

(ii) The manufactured home is covered by a manufacturer's statement or certificate of origin that the owner shall surrender to the department; or

(iii) The manufactured home is not covered by a certificate of title and the owner of the manufactured home, after diligent search and inquiry, is unable to produce the original manufacturer's certificate of origin for the manufactured home;

(G) The name and mailing addresses of any lienholders holding consensual security interests in the manufactured home or whose liens have been noted upon any certificate of title covering the manufactured home;

(H) The decal number of the permit decal affixed to the manufactured home by virtue of § 68-126-406 or any successor statute, indicating that the manufactured home has been set up in accordance with the Uniform Standards Code for Manufactured Homes Act, compiled in title 68, chapter 126, part 2, or if no decal has been affixed to the manufactured home, a statement that:

(i) All permits required by applicable governmental authorities have been obtained;

(ii) The foundation system for the manufactured home complies with all laws, rules, regulations and codes and manufacturer's specifications applicable to the manufactured home becoming a permanent structure upon the real property; and

(iii) The wheels and axles have been removed;

(J) A statement that the manufactured home is permanently connected to a septic or sewer system and other utilities such as electricity, water and gas;

(K) A statement of the preparer of the affidavit of affixation as required by § 66-24-115 or any successor statute; and

(L) Due acknowledgement of the signature of each affiant as required by title 66, chapter 22 or any successor statute.

(2) Any affidavit of affixation containing the foregoing shall be recorded by the appropriate county register of deeds. A copy of the affidavit shall be filed with the assessor of property in order to assist in locating and identifying the manufactured home for property tax purposes.

(c) Recordation of the affidavit of affixation containing the terms in subsection (b) shall be prima facie evidence that the manufactured home has become affixed to the real property as an improvement to real property and shall satisfy the requirements of 11 U.S.C. § 1322(b)(2) or any successor statute, to the extent the manufactured home constitutes the owner's principal residence.

(d) The affidavit of affixation required pursuant to this section shall be in substantially the following form:

THIS INSTRUMENT PREPARED BY:

**AFFIDAVIT OF AFFIXATION
(MANUFACTURED HOME)**

STATE OF _____) ss.:
)
COUNTY OF _____)

BEFORE ME, the undersigned notary public, on this day personally appeared

[type the name(s) of each homeowner signing this affidavit]:

known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed below (each a "homeowner"), and who, being by me first duly sworn, did each by personal oath state as follows:

1. Homeowner(s) owns the manufactured home ("home") described as follows:

New/Used	Year	Manufacturer's Name	Model

Name and No.		Length/Width	

Manufacturer's Serial No.			

2. The home is or will be located at the following "property address":

Street or Route	City	County	State	Zip Code

3. The legal description of the real property where the home is or will be permanently affixed ("land") is:

4. The homeowner(s) executing below is/are all the legal owner(s) of the real property to which the home has become permanently affixed.

5. The home shall be assessed and taxed as an improvement to the land.

6. Check one:

A. _____ The home bears permit decal number _____ (appearing in the inside cover of the electrical box for the home), indicating that the home has been "set up" in accordance with the Uniform Standards Code (T.C.A. § 68-126-406); OR

- B. _____ (1) All permits required by applicable governmental authorities have been obtained;
 (2) The foundation system for the home complies with all laws, rules, regulations and codes and manufacturer's specifications applicable to the manufactured home becoming a permanent structure upon the real property; and
 (3) The wheels and axles have been removed.

7. The home is permanently connected to a septic or sewer system and other utilities such as electricity, water and gas.

8. Check one:

- A. _____ The manufactured home is covered by a certificate of title that the owner shall surrender to the department;
- B. _____ The manufactured home is covered by a manufacturer's statement or certificate of origin that the owner shall surrender to the department; OR
- C. _____ The manufactured home is not covered by a certificate of title and the owner of the manufactured home, after diligent search and inquiry, is unable to produce the original manufacturer's certificate of origin for the manufactured home;

8. The home is subject to the following security interests (each, a "security interest"):

Name of Lienholder:

Name of Lienholder:

Address:

Address:

Original Principal Amount Secured:

Original Amount Secured:

9. Other than those disclosed in this affidavit, the homeowner is not aware of (i) any other claim, lien or encumbrance affecting the home, (ii) any facts or information known to the homeowner that could reasonably affect the validity of the homeowner's title to the home or the existence or non-existence of security interests in the home.

This affidavit is executed by homeowner(s) pursuant to applicable state law and shall be recorded in the real property records in the county in which the home is located.

Further affiant(s) sayeth naught.

 Homeowner #1

 Printed Name

 Homeowner #2 (If more than one homeowner)

 Printed Name

 Homeowner #3 (If more than two homeowners)

Printed Name

STATE OF _____

COUNTY OF _____

Personally appeared before me, _____, a notary public in and for the state and county aforesaid, _____, the within named person(s), with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person was the one who executed the foregoing instrument for the purposes therein contained.

WITNESS my hand and seal at office, on this ____ day of _____, 20____.

Notary Public

My Commission Expires:

ATTENTION COUNTY REGISTER OF DEEDS: This instrument covers goods that are or are to become fixtures on or improvements to the property described in this instrument and is to be filed for record in the real estate records.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it.