

1 **MANUFACTURED HOME AND MOBILE HOME**
2 **AMENDMENTS**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Wayne A. Harper**

6 **This act modifies the Mortgage Financing Regulation Act and Motor Vehicle Act. The**
7 **act provides definitions and modifies the procedures and requirements for classifying**
8 **manufactured homes and mobile homes as real property or personal property. The act**
9 **repeals Part 6 of the Property Tax Act. The act makes technical changes. The act takes**
10 **effect on January 1, 2004.**

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 AMENDS:

13 **9-4-1202**, as renumbered and amended by Chapter 30, Laws of Utah 1997

14 **59-2-1109**, as last amended by Chapters 221 and 310, Laws of Utah 2001

15 ENACTS:

16 **41-1a-1320**, Utah Code Annotated 1953

17 **70D-1-19**, Utah Code Annotated 1953

18 **70D-1-20**, Utah Code Annotated 1953

19 REPEALS:

20 **59-2-601**, as last amended by Chapter 1, Laws of Utah 2000

21 **59-2-602**, as last amended by Chapter 264, Laws of Utah 1998

22 **59-2-604**, as last amended by Chapter 264, Laws of Utah 1998

23 *Be it enacted by the Legislature of the state of Utah:*

24 Section 1. Section **9-4-1202** is amended to read:

25 **9-4-1202. Legislative policy and purpose.**

26 (1) It is the policy of the state that to promote the general welfare of its citizens it is
27 necessary to remedy the unsafe and unsanitary housing conditions and the acute shortage of



28 decent, safe, and sanitary dwellings for families of medium and low income, in urban and rural
29 areas. These conditions cause an increase and spread of disease and crime, and constitute a
30 menace to the health, safety, morals, and welfare of the state.

31 (2) It is the policy of the state:

32 (a) to make adequate provision of affordable housing for:

33 (i) persons of medium or low income who are unable to provide themselves with
34 decent housing including:

35 (A) elderly persons;

36 (B) persons with disabilities;

37 (C) veterans;

38 (D) special needs populations;

39 (E) low income persons living on tribal trust lands;

40 (F) persons receiving public assistance under self-sufficiency programs; or

41 (G) low income persons living in mobile homes as defined in Section [~~59-2-60†~~]

42 70D-1-19; and

43 (ii) during limited periods, for disaster victims; and

44 (b) that the provision of safe and sanitary dwelling accommodations at rents or prices
45 that persons of medium and low income can afford will materially assist in developing more
46 desirable neighborhoods and alleviating the effects of poverty in this state.

47 (3) The purposes of this part and Part 6, Housing Authorities, are to meet these
48 problems by:

49 (a) providing low-cost housing for medium and low income persons; and

50 (b) encouraging cooperation between political subdivisions and the nonprofit sector to
51 make available low-cost housing in all areas of the state.

52 (4) It is in the public interest to use the broad financial resources and technical services
53 available to government in cooperation with the ingenuity and expertise of private enterprise to
54 alleviate this lack of safe and sanitary dwellings while stimulating local industry, according to
55 the following principles:

56 (a) The private sector, including nonprofit entities, shall be the primary source of
57 developing and providing affordable housing with state and local incentives to encourage
58 housing development.

59 (b) State money used in the development of housing shall:
60 (i) be heavily leveraged when possible;
61 (ii) be primarily invested as loans;
62 (iii) be primarily spent on housing production; and
63 (iv) give priority to needs of persons of medium or low income who are unable to
64 provide themselves with decent housing including:

65 (A) elderly persons;
66 (B) persons with disabilities;
67 (C) veterans;
68 (D) special needs populations;
69 (E) low income persons living on tribal trust lands;
70 (F) persons receiving public assistance under self-sufficiency programs; and
71 (G) low income persons living in mobile homes as defined in Section [~~59-2-601~~]
72 70D-1-19.

73 (c) When possible based on economic feasibility and effectiveness, state housing
74 programs shall encourage:

75 (i) mixed income developments;
76 (ii) socio-economic diversity in neighborhoods; and
77 (iii) new, multifamily construction.

78 (d) State resources may be used in partnership with political subdivisions or the private
79 sector to promote affordable housing.

80 (e) Within appropriations from the Legislature, the state may provide training and
81 technical assistance to Utah's political subdivision, quasi-governmental, and nonprofit housing
82 providers.

83 Section 2. Section **41-1a-1320** is enacted to read:

84 **41-1a-1320. Tax clearance required to move manufactured home or mobile home.**

85 (1) A manufactured home or mobile home may not be transported by any person,
86 including its owner, unless a tax clearance has been obtained from the assessor of the county in
87 which the real property upon which the manufactured home or mobile home was last located
88 showing that all property taxes, including any interest and penalties, have been paid.

89 (2) The tax clearance described in Subsection (1):

90 (a) is proof of having paid all property taxes, interest, and penalties; and
 91 (b) shall be displayed in a conspicuous place on the rear of the manufactured home or
 92 mobile home so as to be plainly visible while in transit.

93 (3) (a) Any person, including the owner, who transports a manufactured home or
 94 mobile home without a valid tax clearance is:

- 95 (i) in violation of Section 59-2-309; and
- 96 (ii) subject to the penalty provisions of that section.

97 (b) In addition to the penalty provided in Subsection (3)(a), any commercial mover
 98 who transports any manufactured home or mobile home without a valid tax clearance is guilty
 99 of a class B misdemeanor.

100 Section 3. Section **59-2-1109** is amended to read:

101 **59-2-1109. Indigent persons -- Deferral or abatement -- Application -- County**
 102 **authority to make refunds.**

103 (1) A person under the age of 65 years is not eligible for a deferral or abatement
 104 provided for poor people under Sections 59-2-1107 and 59-2-1108 unless:

- 105 (a) the county finds that extreme hardship would prevail if the grants were not made; or
- 106 (b) the person is disabled.

107 (2) (a) An application for the deferral or abatement shall be filed on or before
 108 September 1 with the county in which the property is located.

109 (b) The application shall include a signed statement setting forth the eligibility of the
 110 applicant for the deferral or abatement.

111 (c) Both husband and wife shall sign the application if the husband and wife seek a
 112 deferral or abatement on a residence:

- 113 (i) in which they both reside; and
- 114 (ii) which they own as joint tenants.

115 (d) A county may extend the deadline for filing under Subsection (2)(a) until December
 116 31 if the county finds that good cause exists to extend the deadline.

117 (3) (a) For purposes of this Subsection (3):

- 118 (i) "Property taxes due" means the taxes due on a person's property:
- 119 (A) for which an abatement is granted by a county under Section 59-2-1107; and
- 120 (B) for the calendar year for which the abatement is granted.

- 121 (ii) "Property taxes paid" is an amount equal to the sum of:
- 122 (A) the amount of the property taxes the person paid for the taxable year for which the
- 123 person is applying for the abatement; and
- 124 (B) the amount of the abatement the county grants under Section 59-2-1107.
- 125 (b) A county granting an abatement to a person under Section 59-2-1107 shall refund
- 126 to that person an amount equal to the amount by which the person's property taxes paid exceed
- 127 the person's property taxes due, if that amount is \$1 or more.
- 128 (4) For purposes of this section:
- 129 (a) a poor person is any person:
- 130 (i) whose total household income as defined in Section 59-2-1202 is less than the
- 131 maximum household income certified to a homeowner's credit under Subsection 59-2-1208(1);
- 132 (ii) who resides for not less than ten months of each year in the residence for which the
- 133 tax relief, deferral, or abatement is requested; and
- 134 (iii) who is unable to meet the tax assessed on the person's residential property as the
- 135 tax becomes due; and
- 136 (b) "residence" includes a mobile home as defined under Section [~~59-2-601~~] 70D-1-19.
- 137 (5) If the claimant is the grantor of a trust holding title to real or tangible personal
- 138 property on which an abatement or deferral is claimed, the claimant may claim the portion of
- 139 the abatement or deferral under Section 59-2-1107 or 59-2-1108 and be treated as the owner of
- 140 that portion of the property held in trust for which the claimant proves to the satisfaction of the
- 141 county that:
- 142 (a) title to the portion of the trust will revert in the claimant upon the exercise of a
- 143 power:
- 144 (i) by:
- 145 (A) the claimant as grantor of the trust;
- 146 (B) a nonadverse party; or
- 147 (C) both the claimant and a nonadverse party; and
- 148 (ii) regardless of whether the power is a power:
- 149 (A) to revoke;
- 150 (B) to terminate;
- 151 (C) to alter;

- 152 (D) to amend; or
- 153 (E) to appoint;
- 154 (b) the claimant is obligated to pay the taxes on that portion of the trust property
- 155 beginning January 1 of the year the claimant claims the abatement or deferral; and
- 156 (c) the claimant meets the requirements under this part for the abatement or deferral.
- 157 (6) The commission shall adopt rules to implement this section.
- 158 (7) Any poor person may qualify for:
- 159 (a) the deferral of taxes under Section 59-2-1108;
- 160 (b) if the person meets the requisites of this section, for the abatement of taxes under
- 161 Section 59-2-1107; or
- 162 (c) both:
- 163 (i) the deferral described in Subsection (7)(a); and
- 164 (ii) the abatement described in Subsection (7)(b).

Section 4. Section **70D-1-19** is enacted to read:

70D-1-19. Definitions.

As used in this part:

(1) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the National Manufactured Housing Construction and Safety Standards Act of 1974, in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(2) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the National Manufactured Housing Construction and Safety Standards Act of 1974.

(3) "Permanently affixed" means anchored to, and supported by, a permanent foundation or installed in accordance with an installation standard as defined in Subsection 58-56-3(8).

Section 5. Section **70D-1-20** is enacted to read:

70D-1-20. Qualification of manufactured home or mobile home as improvement

183 **to real property -- Requirements -- Removal from property.**

184 (1) Except as provided in this section, a manufactured home or mobile home shall be
185 considered personal property.

186 (2) Notwithstanding Subsection (1), if the requirements of this section are not met, a
187 manufactured home or mobile home shall be:

188 (a) considered to be an improvement to real property; and

189 (b) considered as real property.

190 (3) A manufactured home or mobile home shall be considered to be an improvement to
191 real property if:

192 (a) the manufactured home or mobile home is permanently affixed to real property;

193 (b) the person seeking to have the manufactured home or mobile home considered to
194 be an improvement to real property:

195 (i) owns the manufactured home or mobile home; and

196 (ii) (A) owns the real property to which the manufactured home or mobile home is
197 permanently affixed; or

198 (B) leases the real property to which the manufactured home or mobile home is
199 permanently affixed and the real property is financed in accordance with Subsection (4); and

200 (iii) meets the requirements of Subsections (5) and (6); and

201 (c) in accordance with Subsection (7), the following are recorded by the county
202 recorder:

203 (i) the affidavit of affixture described in Subsection (7); and

204 (ii) the receipt of surrender described in Subsection (7).

205 (4) For purposes of Subsection (3)(b)(ii)(B), a manufactured home or mobile home
206 shall be financed in accordance with the guidelines established by:

207 (a) the Federal Home Loan Mortgage Corporation;

208 (b) the Federal National Mortgage Association;

209 (c) the United States Department of Agriculture; or

210 (d) another entity that requires as part of the entity's financing program restrictions:

211 (i) on:

212 (A) ownership; and

213 (B) actions affecting title and possession; and

214 (ii) if the restrictions described in Subsection (4)(d)(i) are similar to restrictions
215 imposed by one or more of the entities described in Subsections (4)(a) through (c).

216 (5) (a) An owner of a manufactured home or mobile home seeking to have the
217 manufactured home or mobile home considered to be an improvement to real property and
218 considered real property shall file an affidavit of affixture:

219 (i) with the county recorder; and

220 (ii) in the county in which the real property to which the manufactured home or mobile
221 home is permanently affixed.

222 (b) An affidavit of affixture described in Subsection (5)(a) shall contain:

223 (i) the vehicle identification numbers of the manufactured home or mobile home;

224 (ii) the legal description of the real property to which the manufactured home or mobile
225 home is permanently affixed;

226 (iii) a statement that the manufactured home or mobile home has not previously been
227 assessed and taxed in this state as personal property or, if that is not the case, the name and
228 address of the person to whom the last property tax notice for the manufactured home or
229 mobile home was sent and the location of the manufactured home or mobile home when last
230 taxed; and

231 (iv) a description of any security interests in the manufactured home or mobile home.

232 (c) The county recorder described in Subsection (5)(a) shall provide a copy of an
233 affidavit of affixture to an owner filing the affidavit of affixture.

234 (6) (a) An owner described in Subsection (5) that obtains an affidavit of affixture from
235 a county recorder shall:

236 (i) present the affidavit of affixture to the Motor Vehicle Division of the commission;
237 and

238 (ii) surrender to the Motor Vehicle Division of the commission the:

239 (A) manufacturer's original certificate of origin; or

240 (B) title to the manufactured home or mobile home to the division.

241 (b) The Motor Vehicle Division of the commission shall:

242 (i) issue an owner meeting the requirements of Subsection (6)(a) a receipt of surrender;
243 and

244 (ii) maintain a permanent record of:

245 (A) the receipt of surrender; and
 246 (B) the certificate or title described in Subsection (6)(a)(ii).
 247 (7) (a) An owner shall present to the county recorder:
 248 (i) the affidavit of affixture described in Subsection (5); and
 249 (ii) the receipt of surrender described in Subsection (6).
 250 (b) A county recorder who receives an affidavit of affixture and receipt of surrender
 251 described in Subsection (7)(a) shall record the receipt of surrender and affidavit of affixture.
 252 (8) A lien on the manufactured home or mobile home that is considered to be an
 253 improvement to real property shall be perfected in the manner provided for the perfection of a
 254 lien on real property.
 255 (9) If a manufactured home or mobile home owner separates the manufactured home or
 256 mobile home from the real property, the owner may acquire a new title by submitting to the
 257 Motor Vehicle Division of the commission:
 258 (a) a recorded affidavit that the manufactured home or mobile home has been removed
 259 from the real property; and
 260 (b) an application for a new title.
 261 **Section 6. Repealer.**
 262 This act repeals:
 263 Section **59-2-601, Definitions.**
 264 Section **59-2-602, Qualification of manufactured home or mobile home as**
 265 **improvement to real property -- Requirements -- Removal from property.**
 266 Section **59-2-604, Tax clearance required to move manufactured home or mobile**
 267 **home.**
 268 Section 7. **Effective date.**
 269 This act takes effect on January 1, 2004.

Legislative Review Note
as of 2-14-03 3:43 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0142

Manufactured Home and Mobile Home Amendments

17-Feb-03

4:36 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst