

**MANUFACTURED HOME AND MOBILE HOME
AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Wayne A. Harper

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

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

AMENDS:

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

58-56-17, as last amended by Chapter 42, Laws of Utah 1999

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

ENACTS:

41-1a-1320, Utah Code Annotated 1953

70D-1-19, Utah Code Annotated 1953

70D-1-20, Utah Code Annotated 1953

REPEALS:

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

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

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

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

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

9-4-1202. Legislative policy and purpose.

(1) It is the policy of the state that to promote the general welfare of its citizens it is necessary to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of medium and low income, in urban and rural

areas. These conditions cause an increase and spread of disease and crime, and constitute a menace to the health, safety, morals, and welfare of the state.

(2) It is the policy of the state:

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

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

(A) elderly persons;

(B) persons with disabilities;

(C) veterans;

(D) special needs populations;

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

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

(G) low income persons living in mobile homes as defined in Section [~~59-2-601~~]

70D-1-19; and

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

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

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

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

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

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

(a) The private sector, including nonprofit entities, shall be the primary source of

developing and providing affordable housing with state and local incentives to encourage housing development.

(b) State money used in the development of housing shall:

- (i) be heavily leveraged when possible;
- (ii) be primarily invested as loans;
- (iii) be primarily spent on housing production; and
- (iv) give priority to needs of persons of medium or low income who are unable to

provide themselves with decent housing including:

- (A) elderly persons;
- (B) persons with disabilities;
- (C) veterans;
- (D) special needs populations;
- (E) low income persons living on tribal trust lands;
- (F) persons receiving public assistance under self-sufficiency programs; and
- (G) low income persons living in mobile homes as defined in Section [59-2-601]

70D-1-19.

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

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

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

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

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

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

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

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

(a) is proof of having paid all property taxes, interest, and penalties; and

(b) shall be displayed in a conspicuous place on the rear of the manufactured home or mobile home so as to be plainly visible while in transit.

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

(i) in violation of Section 59-2-309; and

(ii) subject to the penalty provisions of Section 59-2-309.

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

Section 3. Section **58-56-17** is amended to read:

58-56-17. Fees on sale -- Escrow agents -- Sales tax.

(1) Each dealer shall collect and remit a fee of \$75 to the division for each factory built home the dealer sells that has not, as of the date of the sale, been permanently affixed to real property and converted to real property as provided in Section 70D-1-20. The fee shall be payable within 30 days following the close of each calendar quarter for all units sold during that calendar quarter. The fee shall be deposited in a restricted account as provided in Section 58-56-17.5.

(2) Any principal real estate broker, associate broker, or sales agent exempt from registration as a dealer under Section 58-56-16 who sells a factory built home that has not been permanently affixed to real property shall close the sale only through a qualified escrow agent in this state registered with the Insurance Department or the Department of Financial Institutions.

(3) Each escrow agent through which a sale is closed under Subsection (2) shall remit all

required sales tax to the state.

Section 4. Section **59-2-1109** is amended to read:

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

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

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

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

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

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

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

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

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

- (i) "Property taxes due" means the taxes due on a person's property:
 - (A) for which an abatement is granted by a county under Section 59-2-1107; and
 - (B) for the calendar year for which the abatement is granted.
- (ii) "Property taxes paid" is an amount equal to the sum of:

(A) the amount of the property taxes the person paid for the taxable year for which the person is applying for the abatement; and

(B) the amount of the abatement the county grants under Section 59-2-1107.

(b) A county granting an abatement to a person under Section 59-2-1107 shall refund to that person an amount equal to the amount by which the person's property taxes paid exceed the

person's property taxes due, if that amount is \$1 or more.

(4) For purposes of this section:

(a) a poor person is any person:

(i) whose total household income as defined in Section 59-2-1202 is less than the maximum household income certified to a homeowner's credit under Subsection 59-2-1208(1);

(ii) who resides for not less than ten months of each year in the residence for which the tax relief, deferral, or abatement is requested; and

(iii) who is unable to meet the tax assessed on the person's residential property as the tax becomes due; and

(b) "residence" includes a mobile home as defined under Section [~~59-2-604~~] 70D-1-19.

(5) If the claimant is the grantor of a trust holding title to real or tangible personal property on which an abatement or deferral is claimed, the claimant may claim the portion of the abatement or deferral under Section 59-2-1107 or 59-2-1108 and be treated as the owner of that portion of the property held in trust for which the claimant proves to the satisfaction of the county that:

(a) title to the portion of the trust will revert in the claimant upon the exercise of a power:

(i) by:

(A) the claimant as grantor of the trust;

(B) a nonadverse party; or

(C) both the claimant and a nonadverse party; and

(ii) regardless of whether the power is a power:

(A) to revoke;

(B) to terminate;

(C) to alter;

(D) to amend; or

(E) to appoint;

(b) the claimant is obligated to pay the taxes on that portion of the trust property

beginning January 1 of the year the claimant claims the abatement or deferral; and

(c) the claimant meets the requirements under this part for the abatement or deferral.

(6) The commission shall adopt rules to implement this section.

(7) Any poor person may qualify for:

(a) the deferral of taxes under Section 59-2-1108;

(b) if the person meets the requisites of this section, for the abatement of taxes under

Section 59-2-1107; or

(c) both:

(i) the deferral described in Subsection (7)(a); and

(ii) the abatement described in Subsection (7)(b).

Section 5. 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 6. Section **70D-1-20** is enacted to read:

70D-1-20. Qualification of manufactured home or mobile home as improvement to real property -- Requirements -- Removal from property.

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

(2) Notwithstanding Subsection (1), if the requirements of this section are met, a manufactured home or mobile home shall be:

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

(b) considered as real property.

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

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

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

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

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

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

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

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

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

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

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

(a) the Federal Home Loan Mortgage Corporation;

(b) the Federal National Mortgage Association;

(c) the United States Department of Agriculture; or

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

(i) on:

(A) ownership; and

(B) actions affecting title and possession; and

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

(5) (a) An owner of a manufactured home or mobile home seeking to have the manufactured home or mobile home considered to be an improvement to real property and considered real property shall complete an affidavit of affixture.

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

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

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

(iii) a statement certified by the assessor of the county in which the manufactured home or mobile home is located that the owner of the manufactured home or mobile home:

(A) is not required to pay personal property tax in this state on the manufactured home or mobile home; or

(B) if the manufactured home or mobile home is subject to personal property tax in this state, has paid all current and prior year personal property taxes assessed on the manufactured home or mobile home;

(iv) a description of any security interests in the manufactured home or mobile home;
and

(v) a receipt of surrender issued by the Motor Vehicle Division of the State Tax Commission in accordance with Subsection (6).

(6) (a) The Motor Vehicle Division of the State Tax Commission shall issue a receipt of surrender under Subsection (5)(b)(v) if an owner described in Subsection (5) surrenders to the Motor Vehicle Division the:

(i) manufacturer's original certificate of origin; or

(ii) title to the manufactured home or mobile home.

(b) After issuing the receipt of surrender in Subsection (6)(a), the Motor Vehicle Division shall maintain a permanent record of:

- (i) the receipt of surrender; and
- (ii) the certificate or title described in Subsection (6)(a)(ii).

(7) (a) An owner shall present to the county recorder:

- (i) the affidavit of affixture described in Subsection (5); and
- (ii) the receipt of surrender described in Subsection (6).

(b) A county recorder who receives an affidavit of affixture and receipt of surrender described in Subsection (7)(a) shall record the receipt of surrender and affidavit of affixture.

(c) An owner of property described in Subsection (5) shall provide a copy of the recorded affidavit of affixture to:

- (i) the Motor Vehicle Division of the Tax Commission; and
- (ii) the assessor of the county in which the manufactured home or mobile home is located.

(8) A lien on the manufactured home or mobile home that is considered to be an improvement to real property shall be perfected in the manner provided for the perfection of a lien on real property.

(9) If a manufactured home or mobile home owner separates the manufactured home or mobile home from the real property, the owner may acquire a new title by submitting to the Motor Vehicle Division of the State Tax Commission:

- (a) a recorded affidavit that the manufactured home or mobile home has been removed from the real property; and
- (b) an application for a new title.

(10) The determination of whether a manufactured home or mobile home is considered real property or personal property under this section may not be considered in determining whether the manufactured home or mobile home is real property or personal property for purposes of taxation under Title 59, Chapter 2, Property Tax Act.

Section 7. Repealer.

This act repeals:

Section **59-2-601, Definitions.**

Section 59-2-602, Qualification of manufactured home or mobile home as improvement to real property -- Requirements -- Removal from property.

Section 59-2-604, Tax clearance required to move manufactured home or mobile home.

Section 8. Effective date.

This act takes effect on January 1, 2004.