

MOBILE HOME AFFIXED TO REAL PROPERTY

Phone: (517) 373-8080
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House Bill 5449 as enacted
Public Act 33 of 2022
Sponsor: Rep. TC Clements
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform
Complete to 12-16-22

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5449 amends the Mobile Home Commission Act to establish a process by which an owner of a mobile home located on his or her real property, who lost or never received a certificate of title to the mobile home at the time of acquiring the property with the mobile home already affixed to it, can establish that the mobile home is affixed to that property without first having to obtain a court order establishing ownership.

Section 30i of the act previously *allowed* the owner of a mobile home that is *affixed* to his or her real property to deliver to the secretary of state (SOS) a certificate of title for the mobile home, an affidavit of affixture that includes a statement that the mobile home is affixed to the real property, along with other required information, and the fee established in section 30a for a certificate of title.

Under the act, a mobile home is *affixed* to real property if the wheels, towing hitches, and running gear are removed and the home is attached to a foundation or other support system.

House Bill 5449 amended this provision to *require*, instead of *allow*, the owner of a mobile home that is affixed to his or her real property to deliver a certificate of title, a *completed* affidavit of affixture, and the prescribed fee for the certificate of title to the SOS. The bill also requires the *completed* affidavit to include, in addition to information currently required, the address at which the mobile home is physically affixed.

When SOS receives the affidavit, it cancels the certificate of title, the mobile home is considered to be part of the real property, sections 30 to 30h of the act do not apply to that mobile home, any security interest must comply with laws pertaining to liens or security interests on real property, and the owner can convey the mobile home (e.g., sell it) only as part of the real property to which it is affixed. SOS must maintain the affidavit for 10 years from the date of filing.

In order to detach a mobile home from real property, the owner must record an affidavit of detachment in the office of the register of deeds in the county in which the affidavit is recorded and apply to SOS for a certificate of title. The home cannot be detached (the bill specifies that it cannot not be *physically* detached) from the property before the certificate of title is issued. Once issued, the mobile home is no longer considered part of the real property and sections 30 to 30h of the act once again apply.

Section 30k is a new section added by the bill. Under section 30k, and notwithstanding section 30i (described above), if the owner of the mobile home either lost or never received the certificate of title to the mobile home when acquiring the real property with the mobile home already affixed to it, the mobile home is considered affixed to the real property free of any interests that previously attached to it if both of the following apply:

- The party claiming to own the mobile home also owns the real property it is affixed to.
- The mobile home has been located on the real property for at least 15 years.

The bill requires SOS to approve the affidavit of affixture as submitted if the owner of the mobile home submits to SOS an affidavit of missing title that contains all of the following information and pays any fees required under section 30i to issue the affidavit of affixture:

- The name and address of the owner of the real property.
- The address at which the mobile home is physically affixed, if different from the above address.
- A description of the mobile home that includes the manufacturer's name, year of manufacture, model, and serial number, to the extent known to the affiant (the person filing the affidavit, i.e., the owner). An affiant that does not know the manufacturer's serial number must comply with the process described below to obtain the serial number or, if applicable, a replacement serial number.
- A statement that the mobile home is affixed to the real property and either of the following:
 - Information satisfactory to SOS regarding the date the mobile home was placed on the real property.
 - The date the property assessment or tax roll first reflected that the real property the mobile home is affixed to was improved with the mobile home. If this provision applies, the mobile home owner must include documentation from the county treasurer that shows proof of this date.
- A statement that the mobile home and the property are not located in a mobile home park.
- The real property's legal description and tax parcel number, including a copy of the vesting deed of the real property.
- A statement that, to the best of the affiant's knowledge, no payments are currently being made to any secured party and no amount is currently owed under any debt obligation that may have previously been secured by the mobile home.
- A statement that the mobile home's wheels, towing hitches, and running gear have been removed.
- A statement that the mobile home is attached to a foundation or other support system.

Once the affidavit of affixture is accepted, approved, and subsequently returned to the owner by SOS, the owner is required to immediately record it with the register of deeds of the county as provided in the act. A secured party wishing to preserve its security interest in the mobile home before the expiration of the 15-year-period that would automatically extinguish its security interest in the mobile home may preserve that security interest by complying with the requirements of section 30i(6) and recording notice of the security interest with the register of deeds of the county. The 15-year-period begins when the manufacturer of the mobile home first sells the mobile home or when the tax roll reflects the subject real property as being improved for assessment purposes, whichever is earlier.

If the owner meets the requirements established in this new provision and the affidavit of affixture is issued, the interest of any prior owners of the mobile home is extinguished and title to the mobile home is transferred.

Obtaining a missing or lost serial number

An affiant that does not know the manufacturer's serial number as required above must provide SOS with a completed affidavit of affixture and copies of the recorded deeds in the chain of title for the real property. Upon receipt of those documents, SOS must review the mobile home records database. If a mobile home title in the database matches the affiant's mobile home on the completed affidavit, SOS must use the serial number of that mobile home for the affiant's mobile home. The affiant is responsible for paying any fees required to obtain a serial number.

Obtaining a replacement serial number

If, after examining the mobile home records database, SOS is unable to locate a mobile home title that belongs to any predecessor in title to the real property owned by the affiant, the affiant must apply for a replacement serial number for the mobile home, and SOS must provide the replacement number. An affiant that complies with this provision must submit the completed affidavit of affixture with the replacement serial number received from SOS. The affiant is responsible for paying any fees required to obtain a replacement serial number.

Limitation of liability

SOS is not liable for damages in a civil action for the approval of an affidavit of affixture if the approval is in accordance with the act.

MCL 125.2302 and 125.2330i (amended) and MCL 125.2330k (added)

House Bill 5449 took effect June 13, 2022.

BRIEF DISCUSSION:

House Bill 5449 addresses an issue facing property owners who have an abandoned or old mobile home on their property. Reportedly, if the property owner lacks the documents to establish that the mobile home is affixed to his or her property, he or she may not be able to obtain a loan (such as a home equity loan) or sell the mobile home as part of the property. Often these mobile homes were already on a property when it changed hands but no documentation was given to the new owner or the documentation was lost. Before the bill's effective date, the only option was for a property owner who had all of the required information (e.g., serial number) to obtain a court order to establish ownership before seeking a title with SOS and establishing that the mobile home was affixed to the property. This process was said to take several thousand dollars and several weeks.

The bill provides an alternative process by which a property owner is able to establish ownership and obtain a clear title to a mobile home affixed to the property without having to go to court. The bill applies to individual property owners and not to owners of mobile home parks seeking title to an abandoned trailer in a mobile home park.

According to SOS, any process used must ensure that one and only one title exists, that there are no other titles floating around, and that there are no liens on a title before granting clear title to the current property owner. Reportedly, part of the problem facing SOS and property

owners alike is that a trailer's serial number often cannot be found or the date the trailer was first put on the land is not longer known. The bill addresses this issue by enabling the SOS to issue a replacement serial number. Regardless, the result of any process used must be something that financial institutions and others can rely on.

FISCAL IMPACT:

The bill would result in a marginal increase to the Mobile Home Code Fund by providing a means for mobile home owners to obtain a missing title and to pay the standard mobile home title fee. Section 30a of the act sets the fee at \$90. The number of additional title transactions and fees that would result from the bill is unknown. In fiscal year 2019-20, there were approximately 19,300 transactions that collected over \$1.6 million. Revenue to the Mobile Home Code Fund is distributed to the Department of Licensing and Regulatory Affairs (LARA) for inspection costs and other regulatory purposes, to the Department of the Attorney General for legally representing LARA in contested case administrative hearings and appeals, and to the Department of State for processing mobile home titles.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Michael Cnossen

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.