

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

House Bill 794

(Delegate Niemann)

Environmental Matters

Judicial Proceedings

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Manufactured Homes - Affixation to Real Property - Liens

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This bill alters the lien information that is required to accompany an affidavit of affixation when an owner of a manufactured home intends to convert the home to real property. The bill requires the report that is prepared when the owner is unable to locate an original certificate of title or a manufacturer's certificate of origin, and the statement that accompanies the report, to identify all liens on the manufactured home, including for each lien (1) the name of the lien holder; (2) the nature of the lien; (3) the date the lien was created; and (4) the amount of the lien. The bill also defines the term "lien" and clarifies and makes consistent the references to lien information that must be included in an affidavit of affixation under various circumstances.

The bill takes effect June 1, 2013.

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Fiscal Summary

**State Effect:** The bill's requirements can be implemented with existing resources. No impact on revenues.

**Local Effect:** The bill's requirements can be implemented with existing resources. No impact on revenues.

**Small Business Effect:** None.

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Analysis

**Current Law/Background:** Chapters 546 and 547 of 2012 (SB 591/HB 678) established the requirements that must be met before a manufactured home may be

converted to real property. A manufactured home is converted to real property when (1) the manufactured home is attached to a permanent foundation; (2) the ownership interests in the manufactured home and the parcel of real property to which the manufactured home is affixed are identical; and (3) an affidavit of affixation complying with specified requirements has been recorded with the clerk of the court of the county in which the parcel of real property to which the manufactured home is affixed is located.

Upon satisfaction of specified requirements, any mortgage, deed of trust, lien, or security interest that can attach to real property must attach in the same manner to a manufactured home that is converted to real property as to the parcel of real property to which the manufactured home is affixed. Additionally, the title and all rights to a manufactured home must be transferred by deed with the transfer of the parcel of real property.

An affidavit of affixation must include or be accompanied by specified information or documentation that describes the manufactured home and the parcel of real property to which it is being attached. An affidavit of affixation must be accompanied by (1) an original certificate of title issued by the Motor Vehicle Administration (MVA) containing specified information or (2) a manufacturer's certificate of origin for the manufactured home containing specified information. If either certificate indicates there is a lien, encumbrance, or other security interest for the manufactured home, the certificate must be accompanied by a release from each party that has a security interest in the manufactured home.

If the owner is unable to locate an original certificate of title or a manufacturer's certificate of origin, the affidavit of affixation must be accompanied by a report prepared and acknowledged by an attorney licensed to practice in the State or a title insurance producer licensed to do business in the State that (1) identifies the party preparing the report; (2) states that a specified search has been conducted of MVA records and the appropriate county's land records; and (3) states that no lien, encumbrance, or other security interest has been found for the manufactured home.

Additional statements are required to accompany the affidavit of affixation depending on whether the affidavit of affixation is accompanied by the original certificate of title, the manufacturer's certificate of origin, or a statement from an attorney or title insurance producer. An affidavit of affixation must be signed under penalty of perjury and acknowledged.

The recordation of an affidavit of affixation does not represent a sale or transfer of real property for the purpose of the collection of any tax or fee charged by the State or any county or municipality. Immediately after filing an affidavit of affixation with the clerk of the circuit court, the owner of the property to which a manufactured home has been affixed must send a certified copy of the affidavit and any attachments to MVA. Once

received, MVA must record the affidavit and attachments in its records. MVA must make records for manufactured homes available to attorneys, title insurance producers, and other individuals authorized to conduct a title search.

The clerk of the circuit court of the county in which the parcel of real property is located must accept an affidavit of affixation and any attachments for recordation and indexing. The clerk may also charge a reasonable fee for the recordation.

The owner must file an affidavit of severance if a manufactured home that has been affixed to real property is to be severed from the real property. An affidavit of severance must contain or be accompanied by specified information or documentation which provides the identity and contact information of the real property's owner, a description of the manufactured home, identifying information for the affidavit of affixation, and a statement from a State-licensed attorney or title insurance producer that states that the manufactured home and the real property are free and clear of any lien, security interest, or encumbrance. An affidavit of severance must be acknowledged in writing and notarized.

The clerk of the circuit court of the county in which the parcel of real property is located must accept an affidavit of severance and any attachments for recordation and indexing. The clerk may also charge a reasonable fee for the recordation.

MVA must (1) accept a certified copy of a record affidavit of severance for filing and (2) issue a certificate of title for the severed manufactured home.

A custodian may release personal information held by MVA for use by an attorney, a title insurance producer, or any other individual authorized to conduct a title search of a manufactured home.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 696 (Senator Stone) - Judicial Proceedings.

**Information Source(s):** State Department of Assessments and Taxation, Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of Legislative Services

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