

HOUSE BILL No. 2723

AN ACT relating to manufactured homes and mobile homes; amending K.S.A. 58-4204 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Whenever a manufactured home or mobile home is permanently affixed to real property, by placement upon a permanent foundation of a type not removable intact from such real property, the manufactured home or mobile home shall be considered for all purposes an improvement to real property, if the certificate of title which has been issued or is required to be issued for such manufactured home or mobile home pursuant to K.S.A. 58-4204, and amendments thereto, is eliminated pursuant to this section. If the certificate of title has been eliminated pursuant to this section, the ownership of the manufactured home or mobile home shall be an incident of ownership of the real property where it is located under governing real property law. If the certificate of title has been eliminated pursuant to this section, a separate security interest in the manufactured home or mobile home shall not exist, and the manufactured home or mobile home shall only be subject to a lien as part of the real property where it is located.

(b) To eliminate a certificate of title which has been issued or is required to be issued for a manufactured home or mobile home pursuant to K.S.A. 58-4204, and amendments thereto, the owner of the manufactured home or mobile home shall make application to the division, including submission of the following:

(1) An affidavit, in the form prescribed by the division, signed by all the owners of the manufactured home or mobile home, and also signed by all parties having a mortgage, lien or other security interest in the manufactured home or mobile home, as evidence of consent to the elimination of the certificate of title, and containing:

(A) The date;

(B) the names of all the owners of record of the manufactured home or mobile home;

(C) the legal description of the real property where the manufactured home or mobile home is located;

(D) a description of the manufactured home or mobile home, including model year, make, width, length and identification number;

(E) the names of all parties holding a security interest or otherwise entitled to a lien or encumbrance in the manufactured home or mobile home;

(F) a statement that the owner or one of the owners of the manufactured home or mobile home owns the real property where the manufactured home or mobile home is or will be located; and

(G) the name and address of an owner, lending agency or other entity to which the approved application may be delivered;

(2) the certificate of title for the manufactured home or for the mobile home issued pursuant to K.S.A. 58-4204, and amendments thereto, or in the case of a new manufactured home, the manufacturer's statement of origin;

(3) where one or more parties have a security interest in the manufactured home or mobile home, a release of each such secured party's security interest;

(4) proof of payment of all applicable fees and taxes; and

(5) any other information the division may reasonably require pursuant to duly adopted rules and regulations.

(c) The division shall approve the application for elimination of the title when all requirements of subsection (b) have been satisfied. After the application has been approved, the division shall deliver the approved application as directed by the application. The approved application shall be recorded in the office of the register of deeds of the county in which there is located the real property on which the manufactured home or mobile home is affixed. Upon such recording, the certificate of title shall be presumed to be eliminated. If a certificate of title previously has been issued for the manufactured home or mobile home pursuant to K.S.A. 58-4204, and amendments thereto, the division also shall cancel such certificate of title.

New Sec. 2. The division shall prepare such forms as may be necessary to implement the provisions of section 1, and amendments thereto, and the director shall adopt such rules and regulations as are necessary

to carry out the provisions of the Kansas manufactured housing act, including rules and regulations establishing reasonable fees to cover the division's costs in implementing the provisions of section 1, and amendments thereto.

New Sec. 3. The provisions of sections 1 through 3, and amendments thereto, shall be a part of and supplemental to the Kansas manufactured housing act.

Sec. 4. K.S.A. 58-4204 is hereby amended to read as follows: 58-4204. (a) *For purposes of this section, a manufactured home or mobile home shall be considered to be personal property.* Upon the transfer or sale of any manufactured home or mobile home by any person or dealer, the new owner thereof, within 30 days, inclusive of weekends and holidays, from the date of such transfer or sale, shall make application to the division for the issuance of a certificate of title evidencing the new owner's ownership of such manufactured home or mobile home. An application for certificate of title shall be made by the owner of the manufactured home or mobile home, or the owner's agent, upon a form furnished by the division, and it shall state all liens or encumbrances thereon and such other information as the director may require. Notwithstanding any other provision of this section, no certificate of title, other than a duplicate title, shall be issued for a manufactured home or mobile home having any unreleased lien or encumbrance thereon, unless the transfer of such manufactured home or mobile home has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the director. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of the manufactured home or mobile home, or otherwise entitled to have the certificate of title therefor issued in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title.

(b) The director shall design a distinctive certificate of title to be issued to owners of manufactured homes and mobile homes, so as to be distinguishable from certificates of title issued to owners of vehicles. The certificate of title shall contain a statement of any liens or encumbrances which the application discloses and shall provide such other information as the director determines necessary and appropriate. The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner before a notary public or some other officer authorized to administer oaths. This assignment shall contain a statement of all liens or encumbrances on the manufactured home or mobile home at the time of assignment. When the ownership of any manufactured home or mobile home passes by operation of law or by repossession upon default of a lease, security agreement or executory sales contract, the person owning such manufactured home or mobile home, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the manufactured home or mobile home.

(c) Dealers shall execute, upon delivery to the purchaser of every new manufactured home, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the manufactured home or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the director. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of the purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the director. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new manufactured home, sold in this state, a certificate of title shall be issued.

(d) The fee for each original certificate of title shall be \$3.50. The certificate of title shall be good for the life of the manufactured home or mobile home while owned or held by the original holder of the certificate of title.

(e) Upon sale and delivery to the purchaser of every manufactured home or mobile home subject to a purchase money security interest, as defined in ~~K.S.A. 84-9-107~~ *provided for in article 9 of chapter 84 of the*

Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and, when so completed, the purchaser shall execute the notice, in a form prescribed by the director, describing the manufactured home or mobile home and showing the name and address of the secured party and of the debtor and such other information as the director may require. The dealer or secured party may, within 10 days of the sale and delivery, mail or deliver the notice of security interest, together with a fee of \$2.50, to the division. The notice of security interest shall be retained by the division, until it receives an application for a certificate of title to the manufactured home or mobile home and a certificate of title is issued. The certificate of title shall indicate any security interest in the manufactured home or mobile home. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the ~~vehicle~~ *manufactured home or mobile home* described on the date of such mailing or delivery.

(f) In the event of a sale or transfer of ownership of a manufactured home or mobile home for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the manufactured home or mobile home, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the director and printed thereon, and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the manufactured home or mobile home, or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery. The sale of a mobile home or manufactured home by a manufactured home dealer without such delivery of an assigned certificate of title is fraudulent and void, and it shall constitute a violation of the Kansas manufactured housing act. The agreement of the parties shall be executed on a form provided by the division. The requirements of this subsection concerning delivery of an assigned title are satisfied, if the transferor mails to the transferee, by restricted mail, the assigned certificate of title within the 30 days, and if the transferor is a dealer, as defined by K.S.A. 58-4202, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title, if the transferor has made application therefor to the division.

The buyer shall then present such assigned certificate of title to the division, and a new certificate of title shall be issued to the buyer upon payment of the fee of \$3.50. If such manufactured home or mobile home is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. If any manufactured home or mobile home is destroyed, dismantled or sold as junk, the owner shall immediately notify the division by surrendering the original or assigned certificate of title.

(g) When a person acquires a security agreement on a manufactured home or mobile home subsequent to the issuance of the original title on such manufactured home or mobile home, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in such form as prescribed by the director. Upon such surrender, the person shall immediately deliver the certificate of title, application and a fee of \$3.50 to the division. Upon receipt thereof the division shall issue a new certificate of title, showing the liens or encumbrances so created, but not more than two liens or encumbrances may be shown upon a title. *The delivery of the certificate of title, application and fee to the division shall perfect such person's security interest in the manufactured home or mobile home described in the certificate of title.* When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder, within 10 days after written demand by restricted mail, shall furnish to the holder of the title a release of lien or execute such a release in the space provided

on the title. For failure to comply with such a demand, the lienholder shall be liable to the holder of the title for \$100 and also shall be liable for any loss caused to the holder by such failure. When the indebtedness to a lienholder, whose name is shown upon a title, is collected in full, such lienholder, within 30 days, shall furnish notice to the holder of title that such indebtedness has been paid in full and that such title may be presented to the lienholder at any time for release of lien.

(h) In the event of the sale of a manufactured home or mobile home under the order of a court, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such manufactured home or mobile home. Any such purchaser shall be allowed 30 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title.

(i) Any dealer who has acquired a manufactured home or mobile home, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to retain a Kansas certificate of title therefor during the time such manufactured home or mobile home remains in such dealer's possession and at such dealer's established or supplemental place of business for the purpose of sale. Upon the sale of any such manufactured home or mobile home, the dealer immediately shall deliver to the purchaser or transferee the certificate of title issued by the other state, properly endorsed and assigned to the purchaser or transferee, together with an affidavit executed by the dealer setting forth:

(1) That the dealer warrants to the purchaser or transferee and all other persons who claim through the purchaser or transferee that, at the time of the sale transfer and delivery by the dealers, the manufactured home or mobile home was free and clear of all liens, mortgages and other encumbrances, except those otherwise appearing on the title;

(2) the information shown on the title relating to all previous assignments, including the names of all previous titleholders shown thereon; and

(3) that the dealer has the right to sell and transfer the ~~vehicle~~ *manufactured home or mobile home*.

Sec. 5. K.S.A. 58-4204 is hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.