

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2550

SPONSOR: Comprehensive Planning Local and Military Affairs Committee, Transportation Committee and Senator Sebesta

SUBJECT: Mobile Homes

DATE: April 22, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This CS provides a process to retire title to a mobile home.

This CS creates s. 319.261 of the Florida Statutes.

II. Present Situation:

Freddie Mac and Manufactured Housing in Florida

The Federal Home Loan Mortgage Corporation, or “Freddie Mac”, is a stockholder-owned corporation chartered by Congress in 1970 to increase the supply of money which primary mortgage lenders can make available to home buyers nationwide. Its mission is to purchase investment quality mortgages for primary lenders, packaging the mortgages as securities, and selling the securities to investors.

For more than 20 years, Freddie Mac has purchased mortgages secured by manufactured homes provided certain conditions were satisfied. In order to be eligible for sale to Freddie Mac, among other requirements, the land and the manufactured home must be real estate under state law. Specifically,

The land and improvements must be real estate under applicable law. That is, the manufactured home must be titled as real property and be able to be foreclosed upon and conveyed in the same manner as real property. The lender must take any other steps it deems necessary or prudent to ensure that all of the property securing the mortgage is real property. The lender

must be aware of all state, county and local laws, rules and regulations relating to converting the manufactured home to real property and must have completed all steps to ensure that the property has been converted.¹

Last December, Freddie Mac noticed it's intent to only purchase loans on manufactured housing that is considered "real property under applicable state law." Because a manufactured home in Florida remains titled even after it is converted from personal to real property, Freddie Mac reports this causes them to "take extra steps" to foreclose. If implemented, this policy will preclude the purchase by Freddie Mac of manufactured housing in eight states, including Florida. Consequently, this policy will likely discourage lenders from issuing mortgages on manufactured homes.

The Florida Manufactured Housing Association (FMHA) reports this change in policy by Freddie Mac could have a serious impact on Florida's manufactured housing industry.

Freddie Mac has recommended to FMHA that Florida develop a mechanism to retire or surrender the title to a manufacture home once it is converted to real property.

Although manufactured housing is considered a vehicle under Florida law, the law specifically requires a manufactured home which is placed on real property to become real property for tax purposes² through the issuance of an "RP" sticker by the local tax collector.³ Florida law does not, however, provide a procedure for retirement of the title in these situations.

III. Effect of Proposed Changes:

Section 1 creates s. 319.261, F.S., to provide a mechanism by which the owner of a mobile home which is permanently affixed to real property owned by that same person may permanently retire the title to the mobile home.

Subsection (2) provides that the Department of Highway Safety and Motor Vehicles (DHSMV) is authorized to retire the title to the mobile home if the owner records the following documents with the clerk of court in the county in which the real property is located:

- The original title to the mobile home, or for a new home the manufacturers' certificate of origin, which includes a description of the mobile home, including model year, make, width, length, and vehicle identification number, and a statement by any recorded lienholder on the title that the security interest in the home has been released, or that such security interest will be released upon retirement of the title;
- The legal description of the real property, and in the case of a leasehold interest, a copy of the lease agreement; and
- A sworn statement by the owner that he or she is the owner of the mobile home and that the home is permanently affixed to the real property in accordance with state law.

¹ From Mary M. Pfaff, Manager of State Government Relations, Freddie Mac, letter to FMHA, March 25, 2003.

² See s.193.075(1) and s. 320.015(1), F.S.

³ See s. 320.0815(2), and s. 193.075(1), F.S.

Subsection (3) specifies the clerk of court is responsible for recording the documents and providing to the owner of the real property a copy of the recorded title or manufacturers' certificate of origin and a copy of all the documents recorded. Subsection (4) specifies the owner or lien-holder must then submit these documents with the appropriate application to DHSMV, who must retire the title.

Subsection (5) specifies a mobile home whose title has been retired pursuant to this section shall be conveyed by deed or real estate contract and may only be transferred together with the property to which it is affixed, unless procedures for issuance of a new title are followed.

Subsection (6) requires that if the mobile home is to be removed from the property, the property owner must apply to DHSMV to issue a new title to the mobile home. To issue a new title, the department must receive from the property owner:

- An affidavit signed by the owners of the land and all secured parties and other lien-holders consenting to the removal of the home; and
- A certification from a title insurance company listing the owners and all secured parties and other lien-holders, which is dated within 10 days after the date of application for a new title.

Subsection (7) provides that if the title has been retired, for purposes of perfecting, realizing, and foreclosure of security interests, a separate security interest in the mobile home does not exist, and the mobile home may only be secured as part of the real property through a mortgage or deed of trust.

Subsection (8) provides a mobile home whose title has been retired shall be conveyed by deed or real estate contract and shall only be transferred together with the property to which it is affixed.

Subsection (9) establishes a penalty, a misdemeanor of the second degree, for anyone who falsifies or intentionally omits material information required in an affidavit, or otherwise intentionally violates a material provision of this section.

Subsection (10) provides this section applies to the sale or transfer of mobile homes on or after the effective date of this act, or to any person who voluntarily elects to retire the title to the mobile home pursuant to this section.

Subsection (11) clarifies that “Nothing in this section shall be construed to affect the taxation of mobile homes.”

Section 2 provides a severability clause.

Section 3 provides this act will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

To the extent that mobile home owners choose to retire titles to their mobile homes, DHSMV will not collect annual registration fees, and potential title transaction and transfer fees. This impact is indeterminate.

B. Private Sector Impact:

Freddie Mac reports the changes made by this CS appear to make the necessary changes in law to allow lenders to comply with Freddie Mac's requirement that the manufactured home be real estate. This will enable Freddie Mac to purchase mortgages on manufactured homes in Florida that meet Freddie Mac's definition of quality mortgages.

C. Government Sector Impact:

DHSMV and county clerks of court will be responsible for processing title retirements. Both report they currently have sufficient authority to charge fees to cover the cost of such transactions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
