

Alaska State Legislature



Senator Hollis French

SB 153 – MOBILE HOMES AS REAL PROPERTY

Sponsor Statement

Senate Bill 153 establishes procedures to convert manufactured homes to real property, through a defined process within the Division of Motor Vehicles. This change will give the owners of manufactured homes better access to traditional mortgage financing, which often features lower interest rates, and it will help homeowners increase the value of their house by allowing them to convert their manufactured home into real property. The legislation will also help to prevent 'clouded' titles that often hinder clean transactions involving manufactured homes.

Currently, when a manufactured home is affixed to a permanent foundation on land owned by an individual, the vaguely defined title surrender procedure currently used by the Division of Motor Vehicles lacks a record notice. Without a record notice, a homeowner is often left with an unmarketable title and an unperfected security interest in their house, placing all parties in a real estate transaction – the buyer, the lender, and the seller - at risk.

Many Alaskans live in manufactured homes. This legislation will treat residents that permanently affix a manufactured home to land they own the same way that traditional homeowners are treated in the state. I urge you to support this fair legislation.

SENATE BILL NO. 153

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATOR FRENCH

Introduced: 3/18/09

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to manufactured homes, including manufactured homes permanently
2 affixed to land, to the conversion of manufactured homes to real property, to the
3 severance of manufactured homes from real property, to the titling, conveyance, and
4 encumbrance of manufactured homes, and to manufacturers' certificates of origin for
5 vehicles; and providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 **FINDINGS AND PURPOSE.** (a) The legislature finds the legal status of
10 manufactured homes affixed or to be affixed to real property in the state needs to be clarified.

11 (b) The purpose of this Act is to establish a clear statutory procedure for

12 (1) converting to real property manufactured homes that are affixed to real
13 property; and

(2) severing manufactured homes from real property.

* **Sec. 2.** AS 06.05.207 is amended by adding a new subsection to read:

(c) In this section, "real property" includes a manufactured home that has become real property under AS 34.85.010; in this subsection, "manufactured home" has the meaning given in AS 45.29.102.

* **Sec. 3.** AS 06.15.250 is amended by adding a new subsection to read:

(b) In this section, "real property" includes a manufactured home that has become real property under AS 34.85.010; in this subsection, "manufactured home" has the meaning given in AS 45.29.102.

* **Sec. 4.** AS 06.45.060(5)(A) is amended to read:

(A) loans to members shall be made in conformity with regulations adopted by the commissioner, except that

(i) a residential real estate loan that is made to finance the acquisition of a one- to four-family dwelling for the principal residence of a credit union member that is secured by a first lien on the dwelling may have a maturity not exceeding 30 years;

(ii) a loan to finance the purchase of a manufactured [MOBILE] home that is secured by a first lien on the manufactured [MOBILE] home, to be used as the residence of a credit union member, or for the repair, alteration, or improvement of a residential dwelling that is the residence of a credit union member must have a maturity not to exceed 20 years unless the loan is insured or guaranteed under (iii) of this subparagraph;

(iii) a loan secured by the insurance or guarantee of the federal government, of a state government, or an agency of either may be made for the maturity and under the terms and conditions specified in the law under which the insurance or guarantee is provided;

(iv) a loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan that exceeds \$20,000 plus pledged shares shall be approved by the board of directors;

1 (v) loans to other members for which directors or
2 members of the supervisory or credit committee act as guarantor or
3 endorser shall be approved by the board of directors when the loans
4 standing alone or when added to an outstanding loan or loans of the
5 guarantor or endorser exceed \$20,000;

6 (vi) the rate of interest may not exceed the greater of 15
7 percent a year or the rate specified in AS 45.45.010(b);

8 (vii) the taking, receiving, reserving, or charging of a
9 rate of interest greater than is allowed by this paragraph, when
10 knowingly done, is considered a forfeiture of the entire interest that the
11 note, bill, or other evidence of debt carries with it, or that has been
12 agreed to be paid on the note, bill, or other evidence of debt; if a greater
13 rate of interest has been paid, the person by whom it has been paid or
14 the person's legal representatives may recover back from the credit
15 union taking or receiving it the entire amount of interest paid, but the
16 action must be commenced within two years from the time the usurious
17 collection was made;

18 (viii) a borrower may repay a loan before maturity in
19 whole or in part on any business day without penalty;

20 (ix) loans shall be paid or amortized under regulations
21 adopted by the commissioner that consider the needs or conditions of
22 the borrowers, the amounts and duration of the loans, the interests of
23 the members and the credit union, and other factors established in
24 regulations adopted by the commissioner;

25 (x) the total dollar amount of real estate loans and
26 **manufactured** [MOBILE] home loans outstanding may not exceed 25
27 percent of the assets of the credit union without the written approval of
28 the commissioner;

29 (xi) a credit union with assets of less than \$3,000,000
30 may make real estate loans with maturities in excess of 15 years only
31 with the approval of the commissioner;

1 * **Sec. 5.** AS 06.45.060 is amended by adding a new subsection to read:

2 (b) In this section, "manufactured home" has the meaning given in
3 AS 45.29.102.

4 * **Sec. 6.** AS 06.60.990(19) is amended to read:

5 (19) "mortgage loan"

6 (A) means a loan made to an individual if the proceeds are to
7 be used primarily for personal, family, or household purposes and if the loan is
8 secured by a mortgage or deed of trust on an interest in a residential owner-
9 occupied property, **including a manufactured home that has become real**
10 **property under AS 34.85.010,** for one to four family units located in the state
11 and regardless of where the loan is made; **in this subparagraph,**
12 **"manufactured home" has the meaning given in AS 45.29.102;**

13 (B) includes the renewal or refinancing of a loan;

14 (C) does not include loans

15 (i) or extensions of credit to buyers of real property for
16 a part of the purchase price of the property by persons selling the
17 property owned by them;

18 (ii) to persons related to the lender by blood or
19 marriage;

20 (iii) to persons who are employees of the lender; or

21 (iv) made primarily for a business, commercial, or
22 agricultural purpose of the borrower or for construction of residential
23 property;

24 * **Sec. 7.** AS 09.45 is amended by adding a new section to read:

25 **Article 13. General Provisions.**

26 **Sec. 09.45.990. Definitions.** In this chapter,

27 (1) "real property" includes a manufactured home that has become real
28 property under AS 34.85.010;

29 (2) "manufactured home" has the meaning given in AS 45.29.102.

30 * **Sec. 8.** AS 28.05.061(a) is amended to read:

31 (a) The Department of Administration shall file, maintain, and appropriately

index records of

- (1) vehicle registrations under AS 28.10.071(a) - (c);
- (2) stolen, converted, recovered, and unclaimed vehicles under AS 28.10.071(d);
- (3) titles and documents creating and evidencing liens or encumbrances under AS 28.10.381;
- (4) abandoned vehicles under AS 28.11.030(c); [AND]
- (5) driver's license and driving records under AS 28.15.151;
- (6) applications under AS 28.10.262 for cancellation of a manufacturer's certificate of origin for a manufactured home;**
- (7) applications under AS 28.10.263 for cancellation of a certificate of title for a manufactured home;**
- (8) applications under AS 28.10.264 for confirmation of conversion of a manufactured home to real property;**
- (9) applications under AS 28.10.265 for a certificate of title for a severed manufactured home;**
- (10) manufacturer's certificates of origin accepted for cancellation by the department under AS 28.10.262 for a manufactured home; and**
- (11) certificates of title accepted for cancellation by the department under AS 28.10.263 for a manufactured home.**

* **Sec. 9.** AS 28.05.061 is amended by adding new subsections to read:

- (e) For cancelled manufacturer's certificates of origin, cancelled certificates of title, or applications for conversion filed under (a)(8), (10), or (11) of this section, the department record must state
- (1) the name of each owner of the manufactured home;
 - (2) the date the manufacturer's certificate of origin or the certificate of title was accepted for cancellation if the certificate was cancelled under (a)(10) or (11) of this section; and
 - (3) the recording information for the affixation affidavit required by AS 28.10.266.
- (f) For applications for certificates of title under (a)(9) of this section, the

1 department record must state the name of each owner of the manufactured home and
 2 the recording information for the severance affidavit recorded under AS 40.17.125.

3 (g) In this section, "recording information" means the district where the
 4 affidavit was recorded, and the date and book and page numbers of the affidavit's
 5 recording in the recording district.

6 * **Sec. 10.** AS 28.10.201(b) is amended to read:

7 (b) The owner of a vehicle described in AS 28.10.011 as being exempt from
 8 registration and the owner of a snowmobile or off-highway vehicle may not apply for,
 9 nor may the department issue, a certificate of title for the vehicle. However, the
 10 department

11 (1) may issue a certificate of title to the owner of a vehicle exempt
 12 from registration under AS 28.10.011(3), (6), (7), or (10) only upon application by that
 13 owner; and

14 (2) **except as provided in (e) of this section,** shall issue a certificate of
 15 title to the owner of a **manufactured** [MOBILE] home upon application, display of
 16 evidence of ownership satisfactory to the department, and payment of a fee of \$100 by
 17 the owner; a certificate of title issued under this paragraph must comply with
 18 AS 28.10.231.

19 * **Sec. 11.** AS 28.10.201 is amended by adding a new subsection to read:

20 (e) The department may not issue a certificate of title to a manufactured home
 21 if an application for the manufactured home has been filed under AS 28.10.262 -
 22 28.10.264.

23 * **Sec. 12.** AS 28.10.211(c) is amended to read:

24 (c) When an application for title refers to a new vehicle, the application must
 25 be accompanied by a "manufacturer's **certificate** [STATEMENT] of origin" and other
 26 information reasonably required by the department.

27 * **Sec. 13.** AS 28.10.211 is amended by adding a new subsection to read:

28 (f) The holder of a manufacturer's certificate of origin to a manufactured home
 29 may deliver the certificate to any person to facilitate conveying or encumbering the
 30 manufactured home, and a person who receives the manufacturer's certificate of origin
 31 holds it in trust for the person delivering it.

1 * **Sec. 14.** AS 28.10.221 is amended by adding a new subsection to read:

2 (d) Except as provided in AS 28.10.263, the department may not suspend or
3 revoke a certificate of title to a manufactured home based solely on the fact that the
4 manufactured home is affixed in any manner to real property.

5 * **Sec. 15.** AS 28.10.261 is amended by adding a new subsection to read:

6 (c) Notwithstanding another provision of law to the contrary, a certificate of
7 title issued by the department for a manufactured home is prima facie evidence of the
8 facts appearing on it, even if the manufactured home is affixed in any manner to real
9 property.

10 * **Sec. 16.** AS 28.10 is amended by adding new sections to article 2 to read:

11 **Sec. 28.10.262. Cancellation of manufacturer's certificate of origin to a**
12 **manufactured home.** (a) Subject to AS 28.05.041 and (b) of this section, the
13 department shall cancel the manufacturer's certificate of origin for a manufactured
14 home and update the department's records under AS 28.05.061, if the owner of the
15 manufactured home files the following items with the department:

16 (1) an application that complies with AS 28.10.266 for cancellation of
17 the manufacturer's certificate of origin; and

18 (2) the original certificate of origin.

19 (b) To be eligible for cancellation under (a) of this section, the manufactured
20 home must be covered by a manufacturer's certificate of origin and

21 (1) be permanently affixed to real property under AS 34.85.150; or

22 (2) the owner must intend to permanently affix the manufactured home
23 to real property under AS 34.85.150.

24 (c) The department shall provide to each identified person a written
25 acknowledgment that a person has satisfied this section with regard to a manufactured
26 home.

27 (d) When a person satisfies this section with regard to a manufactured home,
28 the manufactured home is not subject to this chapter.

29 **Sec. 28.10.263. Cancellation of certificate of title to manufactured home.**

30 (a) Subject to AS 28.05.041 and (b) of this section, the department shall cancel the
31 certificate of title for a manufactured home and update the department's records under

AS 28.05.061, if the owner of the manufactured home files the following items with the department:

(1) an application that complies with AS 28.10.266 for cancellation of the certificate of title; and

(2) the original certificate of title.

(b) To be eligible for cancellation under (a) of this section, the manufactured home must be covered by a certificate of title and

(1) be permanently affixed to real property under AS 34.85.150, or the owner must intend to permanently affix the manufactured home to real property under AS 34.85.150; and

(2) all liens or encumbrances filed under AS 28.10.381 have been released.

(c) The department shall provide to each identified person a written acknowledgment that a person has satisfied this section with regard to a manufactured home.

(d) When a person satisfies this section with regard to a manufactured home, the manufactured home is not subject to this chapter.

Sec. 28.10.264. Confirmation of conversion of a manufactured home to real property. (a) Subject to AS 28.05.041, the department shall confirm the conversion of a manufactured home to real property and update the department's records under AS 28.05.061, if the owner of the manufactured home files with the department a conversion confirmation application that complies with AS 28.10.266 and if

(1) the manufactured home is permanently affixed to real property under AS 34.85.150, or the owner intends to permanently affix the manufactured home to real property under AS 34.85.150; and

(2) the manufactured home is

(A) not covered by a manufacturer's certificate of origin or a certificate of title;

(B) covered by a manufacturer's certificate of origin, but the owner of the manufactured home, after diligent search and inquiry, is unable to

1 produce the certificate of origin; or

2 (C) covered by a certificate of title, but the owner of the
3 manufactured home, after diligent search and inquiry, is unable to produce the
4 certificate of title.

5 (b) The department shall provide to each identified person a written
6 acknowledgment that a person has satisfied this section with regard to a manufactured
7 home.

8 (c) When a person satisfies this section with regard to a manufactured home,
9 the manufactured home is not subject to this chapter.

10 **Sec. 28.10.265. Certificate of title to severed manufactured home.** (a)
11 Subject to AS 28.05.041, the department shall issue a certificate of title for a
12 manufactured home and update the department's records under AS 28.05.061, if the
13 owner of the manufactured home files with the department an application that
14 complies with AS 28.10.266 and if

15 (1) the manufactured home was permanently affixed to real property
16 under AS 34.85.150;

17 (2) an affixation affidavit was recorded for the manufactured home
18 under AS 40.17.125; and

19 (3) the manufactured home was severed after the occurrence of (1) and
20 (2) of this subsection from the real property to which it was affixed.

21 (b) When a person satisfies this section with regard to a manufactured home,
22 the manufactured home is subject to this chapter.

23 **Sec. 28.10.266. Application provisions.** An application under AS 28.10.262 -
24 28.10.265 must provide

25 (1) the name, residence, and mailing address of the owner of the
26 manufactured home;

27 (2) a description of the manufactured home, including the name of the
28 manufacturer, the make, the model name, the model year, the dimensions, the
29 manufacturer's serial number for the manufactured home, and other information
30 required by the department about the manufactured home;

31 (3) whether the manufactured home is new or used;

1 (4) for an application under AS 28.10.262 - 28.10.264, the date of
2 purchase by the owner of the manufactured home and the name and address of the
3 person from whom the home was acquired;

4 (5) for an application under AS 28.10.262 - 28.10.264, the names and
5 addresses of any persons who hold liens or encumbrances against the manufactured
6 home and the order of their apparent priority;

7 (6) a statement signed by the owner, stating

8 (A) any facts or information known to the owner that could
9 reasonably affect the validity of the title to the manufactured home or the
10 existence or nonexistence of a lien or encumbrance on it; or

11 (B) that the owner does not know any facts or information that
12 could reasonably affect the validity of the title to the manufactured home or the
13 existence or nonexistence of a lien or encumbrance on the manufactured home;

14 (7) subject to AS 28.10.268, for an application under AS 28.10.262 -
15 28.10.264, a certified copy of the affixation affidavit recorded under AS 40.17.125 for
16 the manufactured home;

17 (8) for an application under AS 28.10.265, a certified copy of the
18 severance affidavit recorded under AS 40.17.125 for the manufactured home;

19 (9) for an application under AS 28.10.262, the original manufacturer's
20 certificate of origin;

21 (10) for an application under AS 28.10.263, the original certificate of
22 title;

23 (11) for an application under AS 28.10.264 or 28.10.265, a declaration
24 that complies with AS 28.10.267;

25 (12) the name and mailing address of each person named to receive a
26 written acknowledgment from the department under AS 28.10.262 - 28.10.264; and

27 (13) other information and documents the department reasonably
28 requires to

29 (A) identify the owner of the manufactured home;

30 (B) determine the existence or nonexistence of liens or
31 encumbrances on the manufactured home;

1 (C) for an application under AS 28.10.262 - 28.10.264, enable
2 the department to determine whether the owner satisfied the applicable
3 requirements of AS 34.85; and

4 (D) for an application under AS 28.10.265, enable the
5 department to determine whether the owner of the manufactured home is
6 entitled to a certificate of title.

7 **Sec. 28.10.267. Declaration.** (a) The declaration required by AS 28.10.265
8 must be made under oath or affirmation by an attorney authorized under AS 08.08 to
9 practice law in the state or an agent of a title insurance company entitled under
10 AS 21.66 to transact a title insurance business in this state.

11 (b) The declaration must state that the manufactured home is free and clear of
12 all liens and encumbrances and

13 (1) any facts or information known to the attorney or agent that could
14 reasonably affect the validity of the title to the manufactured home or the existence or
15 nonexistence of a lien or encumbrance on the manufactured home; or

16 (2) that the attorney or agent does not know any facts or information
17 that could reasonably affect the validity of the title of the manufactured home or the
18 existence or nonexistence of a lien or encumbrance on the manufactured home.

19 **Sec. 28.10.268. Time of satisfaction.** If a person delivers an application under
20 AS 28.10.262 - 28.10.264 for a manufactured home to the department within 30 days
21 after an affixation affidavit for the manufactured home is recorded under
22 AS 40.17.125, and if the application is accepted by the department, the requirements
23 of AS 28.10.262 - 28.10.264 are considered to be satisfied on the date the affixation
24 affidavit is recorded, and, if the manufactured home is conveyed or encumbered on
25 and after that date, the manufactured home shall be conveyed and encumbered as real
26 property.

27 **Sec. 28.10.269. Definitions.** In AS 28.10.201 - 28.10.269, unless the context
28 indicates otherwise,

29 (1) "affixation affidavit" means an affixation affidavit under
30 AS 34.85.060;

31 (2) "identified person" means a person identified in an application filed

under AS 28.10.262 - 28.10.264 to receive a written acknowledgement of the filing from the department.

* **Sec. 17.** AS 28.10.371 is amended by adding new subsections to read:

(b) Notwithstanding (a) of this section, a lien on a manufactured home for the purchase of the manufactured home is valid against judicial lien creditors and execution creditors on and after the date the lien attaches under AS 45.29 against the manufactured home.

(c) Notwithstanding (a) of this section, the holder of a lien on a manufactured home may deliver a lien release document to a person to facilitate conveying or encumbering the manufactured home. A person receiving the lien release document holds the document in trust for the lienholder.

* **Sec. 18.** AS 28.10.381 is amended by adding a new subsection to read:

(c) Except as otherwise provided in AS 28.10.262, 28.10.263, and AS 34.85, after a certificate of title has been issued for a manufactured home and while the manufactured home is subject to a lien or encumbrance under (a) of this section,

(1) the department may not cancel the manufacturer's certificate of origin for the manufactured home under AS 28.10.262, or cancel the certificate of title for the manufactured home under AS 28.10.263; and

(2) the validity and priority of the lien or encumbrance continues.

* **Sec. 19.** AS 28.10.391 is amended by adding a new subsection to read:

(e) Notwithstanding another provision of this section, the creation or termination of a lien or encumbrance with respect to a manufactured home that has been converted to real property under AS 34.85.010 is governed by the laws that apply to real property.

* **Sec. 20.** AS 28.10.661(2) is amended to read:

(2) "vehicle" includes mobile homes for the purposes of provisions relating to certificates of title; in this paragraph, "mobile home" means a manufactured home.

* **Sec. 21.** AS 28.10.661 is amended by adding a new paragraph to read:

(3) "manufactured home" has the meaning given in AS 45.29.102.

* **Sec. 22.** AS 29.45.070 is amended to read:

Sec. 29.45.070. Mobile homes. Mobile homes, trailers, house trailers, trailer coaches, and similar property used or intended to be used for residential, office, or commercial purposes and **permanently affixed** [ATTACHED] to **real property under AS 34.85.150** [THE LAND OR CONNECTED TO WATER, GAS, ELECTRIC, OR SEWAGE FACILITIES] are classified as real property for tax purposes unless expressly classified as personal property by ordinance. This section does not apply to house trailers and mobile homes that are unoccupied and held for sale by persons engaged in the business of selling mobile homes. **In this section, "mobile home" has the meaning given to "manufactured home" in AS 45.29.102.**

* **Sec. 23.** AS 34.03.360 is amended by adding a new paragraph to read:

(23) "mobile home" has the meaning given to "manufactured home" in AS 45.29.102.

* **Sec. 24.** AS 34.70.200(3) is amended to read:

(3) "residential real property" means real property whose primary purpose is to provide a single-family dwelling, or two single-family dwellings in one building, **including a manufactured home that has become real property under AS 34.85.010; in this paragraph, "manufactured home" has the meaning given in AS 45.29.102;**

* **Sec. 25.** AS 34.80.090(6) is amended to read:

(6) "residential real property" means real property on which there are one to four attached or detached dwelling units, or any number of apartments if the apartments are in a horizontal property regime formed under AS 34.07 or any number of units if the units are in a common interest community created under AS 34.08; **"residential real property" includes a manufactured home that has become real property under AS 34.85.010; in this paragraph, "manufactured home" has the meaning given in AS 45.29.102;**

* **Sec. 26.** AS 34 is amended by adding a new chapter to read:

Chapter 85. Manufactured Home Property Act.

Sec. 34.85.010. Real property characterization. A manufactured home becomes real property when

(1) the home is permanently affixed to land under AS 34.85.150;

(2) an affixation affidavit has been recorded under AS 40.17.125;

(3) the ownership interests in the manufactured home and in the real property to which the manufactured home is permanently affixed are identical, except as provided by AS 34.85.040; and

(4) if the manufactured home is

(A) covered by a manufacturer's certificate of origin that the owner of the manufactured home is able to produce, the department has cancelled the manufacturer's certificate of origin under AS 28.10.262;

(B) covered by a certificate of title that the owner of the manufactured home is able to produce, the department has cancelled the certificate of title under AS 28.10.263; or

(C) not covered by a manufacturer's certificate of origin or a certificate of title, or if the manufactured home is covered by a manufacturer's certificate of origin or a certificate of title but the owner of the manufactured home, after diligent search and inquiry, was unable to produce the manufacturer's certificate of origin or certificate of title, the department has confirmed the conversion of the manufactured home to real property under AS 28.10.264.

Sec. 34.85.020. Effect of real property characterization. (a) When a manufactured home becomes real property under AS 34.85.010, a mortgage, deed of trust, lien, or security interest that can attach to land, buildings erected on land, or fixtures affixed to land or buildings, attach to the manufactured home in the same manner as if the manufactured home were built from ordinary building materials on the land where the manufactured home is located.

(b) If the title to a manufactured home is transferred after the manufactured home becomes real property under AS 34.85.010, title to the manufactured home, together with the land to which the converted manufactured home is affixed, shall be transferred by deed or other form of conveyance that is effective to transfer an interest in real property.

(c) When a manufactured home becomes real property under AS 34.85.010, the manufactured home is governed by the laws applicable to real property in effect as

1 of the date the manufactured home satisfies AS 34.85.010.

2 **Sec. 34.85.040. Ownership interest exception.** If the owner of a
3 manufactured home is not the owner of the real property on which the manufactured
4 home is located, the requirement under AS 34.85.010(3) that the ownership interests
5 be identical is satisfied if the owner possesses the real property under

6 (1) a lease in a recordable form that has a term that continues for at
7 least 20 years after the date of execution of the affixation affidavit; and

8 (2) the lessor of the real property consents.

9 **Sec. 34.85.060. Affixation affidavit requirements.** An affixation affidavit
10 must provide

11 (1) the name of the manufacturer, the make, the model name, the
12 model year, the dimensions, and the manufacturer's serial number of the manufactured
13 home;

14 (2) whether the manufactured home is new or used;

15 (3) a statement that the person executing the affidavit is

16 (A) the owner of the real property described in the affixation
17 affidavit; or

18 (B) not the owner of the real property described in the
19 affixation affidavit, and the person

20 (i) is in possession of the real property under a lease in
21 recordable form that has a term that continues for at least 20 years after
22 the date of execution of the affidavit; and

23 (ii) the lessor of the real property consents;

24 (4) if (3)(B)(ii) of this section applies, the consent of the lessor of the
25 real property endorsed on or attached to the affidavit and acknowledged or proved in
26 the manner required for the conveyance to be recorded;

27 (5) the street address and the legal description of the real property to
28 which the manufactured home is or shall be permanently affixed;

29 (6) if the manufactured home is not covered by a certificate of title, a
30 statement by the owner to that effect;

31 (7) an owner's statement under AS 34.85.070;

1 (8) a statement whether or not the manufactured home is subject to a
2 lien or encumbrance;

3 (9) if the manufactured home is subject to a lien or encumbrance, a
4 statement giving the name and address of each person who holds a lien or
5 encumbrance on the manufactured home, including each holder of a lien or
6 encumbrance shown on a certificate of title issued by the department, the original
7 principal amount secured by each lien and encumbrance, and a statement that

8 (A) the lien or encumbrance shall be released; or

9 (B) each lien or encumbrance on the manufactured home has
10 been released and proof of the release;

11 (10) if the manufactured home is not covered by a manufacturer's
12 certificate of origin or a certificate of title, a statement by the owner of the
13 manufactured home that the manufactured home is not covered by a manufacturer's
14 certificate of origin or a certificate of title and that the owner of the manufactured
15 home will apply to the department for a confirmation of conversion of the
16 manufactured home;

17 (11) a statement that the manufactured home is or will be permanently
18 affixed to the real property; and

19 (12) the name and address of a person designated for filing the
20 certified copy of the affixation affidavit with the department to whom the recording
21 officer shall return a certified copy of the affixation affidavit after the affixation
22 affidavit has been duly recorded under AS 40.17.125.

23 **Sec. 34.85.070. Owner's statement for affixation affidavit.** (a) An owner's
24 statement for an affixation affidavit must comply with (b) or (c) of this section.

25 (b) If a manufactured home is covered by a manufacturer's certificate of
26 origin, the owner of the manufactured home shall state that

27 (1) the manufactured home is covered by a manufacturer's certificate
28 of origin, the date the manufacturer's certificate of origin was issued, the
29 manufacturer's serial number, the original manufacturer's certificate of origin for the
30 manufactured home is annexed to the affixation affidavit and is endorsed to the owner
31 of the manufactured home, and the owner of the manufactured home will surrender the

1 manufacturer's certificate of origin for cancellation under AS 28.10.262; or

2 (2) the owner of the manufactured home, after diligent search and
3 inquiry, is unable to produce the original manufacturer's certificate of origin for the
4 manufactured home, and shall apply to the department for a confirmation of
5 conversion of the manufactured home under AS 28.10.264.

6 (c) If a manufactured home is covered by a certificate of title, the owner of the
7 manufactured home shall

8 (1) state that the manufactured home is covered by a certificate of title,
9 provide the date the title was issued and the title number, and indicate that the owner
10 shall surrender the title for cancellation under AS 28.10.263; or

11 (2) state that, after diligent search and inquiry, the owner has been
12 unable to produce the certificate of title for the manufactured home and that the owner
13 of the manufactured home shall apply to the department for a confirmation of
14 conversion of the manufactured home under AS 28.10.264.

15 **Sec. 34.85.080. Effect on liens and encumbrances.** Permanently affixing a
16 manufactured home to real property or recording an affixation affidavit under
17 AS 40.17.125 does not impair the rights of a holder of, or the character of, a lien or
18 encumbrance on a manufactured home under AS 28.10.381 unless an application to
19 cancel the title is filed with the department under AS 28.10.263 and the lien or
20 encumbrance is released under AS 28.10.401.

21 **Sec. 34.85.090. Filing affidavit with department.** When a person designated
22 in an affidavit to file the affidavit with the department receives a certified copy of the
23 recorded affidavit, the person shall deliver the certified copy of the affidavit to the
24 department for filing under AS 28.10.262 - 28.10.264.

25 **Sec. 34.85.100. Use of affidavit.** (a) Except as provided in AS 34.85.010,
26 34.85.020, 34.85.090, and AS 40.17.125, an affixation affidavit is not necessary or
27 effective to convey or encumber a manufactured home or to change the character of a
28 manufactured home to real property.

29 (b) A conveyance of land on which a manufactured home is located must
30 recite that the conveyance does not affect the title to the manufactured home and that
31 the transfer or encumbrance of the manufactured home can only be made under

1 AS 28.10 if

2 (1) an affixation affidavit has not been recorded for the manufactured
3 home; or

4 (2) a severance affidavit has been recorded for the manufactured home.

5 (c) An agreement that waives the requirements of (a) or (b) of this subsection
6 is void.

7 **Sec. 34.85.110. Severance of manufactured home.** (a) If an affixation
8 affidavit has been recorded for a converted manufactured home and if the converted
9 manufactured home is severed from the real property to which it was affixed, each
10 person having an interest in the real property shall record a severance affidavit in the
11 recording district where the affixation affidavit was recorded.

12 **Sec. 34.85.120. Severance affidavit.** The severance affidavit must contain or
13 be accompanied by

14 (1) the name, residence, and mailing address of the owner of the
15 manufactured home;

16 (2) a description of the manufactured home, including the name of the
17 manufacturer, the make, the model name, the model year, the dimensions, and the
18 manufacturer's serial number of the manufactured home;

19 (3) whether the manufactured home it is new or used;

20 (4) the book number, page number, and date when the affixation
21 affidavit was recorded;

22 (5) a statement

23 (A) of any facts or information known to the person signing the
24 affidavit that could reasonably affect the validity of the title of the
25 manufactured home or the existence or nonexistence of a lien or encumbrance
26 on the manufactured home; or

27 (B) that the person signing the affidavit does not know any
28 facts or information that could reasonably affect the validity of the title of the
29 manufactured home or the existence or nonexistence of a lien or encumbrance
30 on the manufactured home;

31 (6) a declaration made under oath or affirmation by an attorney

1 authorized under AS 08.08 to practice law in the state or an agent of a title insurance
 2 company entitled under AS 21.66 to transact a title insurance business in this state that
 3 the manufactured home is free and clear of all liens and encumbrances, and

4 (A) any facts or information known to the attorney or agent that
 5 could reasonably affect the validity of the title to the manufactured home or the
 6 existence or nonexistence of a lien or encumbrance on the manufactured home;
 7 or

8 (B) that the attorney or agent does not know any facts or
 9 information known to the attorney or agent that could reasonably affect the
 10 validity of the title to the manufactured home or the existence or nonexistence
 11 of a lien or encumbrance on the manufactured home; and

12 (7) the name and address of the person designated to file the certified
 13 copy of the severance affidavit with the department under AS 28.10.265 and to whom
 14 the recording officer is to return the certified copy of the severance affidavit after it
 15 has been recorded under AS 40.17.125.

16 **Sec. 34.85.130. Filing of severance affidavit.** On receipt of a certified copy of
 17 the severance affidavit by the person designated in the affidavit for filing with the
 18 department, the person shall file the certified copy with the department under
 19 AS 28.10.262 - 28.10.264.

20 **Sec. 34.85.140. Affidavit form and acknowledgment.** (a) An affixation
 21 affidavit and a severance affidavit must be acknowledged in the same manner as a
 22 conveyance of real property and must be in a form that may be recorded under
 23 AS 40.17.

24 (b) The department shall establish by regulation the forms for an affixation
 25 affidavit and a severance affidavit.

26 **Sec. 34.85.150. Permanently affixed.** A manufactured home is permanently
 27 affixed when it is

28 (1) anchored to real property by attachment to a permanent foundation;

29 (2) constructed in accordance with applicable state and local building
 30 codes and manufacturer's specifications as provided in the Model Manufactured Home
 31 Installation Standards of the federal Department of Housing and Urban Development

(24 C.F.R. 3285); and

(3) connected to a residential utility, including water, gas, electricity, sewer, or septic service.

Sec. 34.85.190. Definitions. In this chapter, unless the context requires otherwise,

(1) "affixation affidavit" means an affixation affidavit under AS 34.85.060;

(2) "department" means the Department of Administration;

(3) "manufactured home" has the meaning given in AS 45.29.102;

(4) "permanently affixed" means when a manufactured home is permanently affixed under AS 34.85.150;

(5) "severance affidavit" means a severance affidavit under AS 34.85.120.

Sec. 34.85.195. Short title. This chapter may be cited as the Manufactured Home Property Act.

* **Sec. 27.** AS 40.17 is amended by adding a new section to read:

Sec. 40.17.125. Recording affidavits related to manufactured housing. (a)

A recorder shall record an affixation affidavit and a severance affidavit if the affidavit meets the requirements for recording under AS 40.17.030, meets the requirements for the affidavit under AS 34.85, and is offered for recording in the recording district where the real property to which the manufactured home affixed is located.

(b) A recording officer shall write on the recorded affidavit

(1) the indexing information for the recorded affidavit; and

(2) that the recorded affidavit was recorded in land records.

(c) After recording the affixation affidavit, the recording officer shall send a certified copy of the recorded affidavit and its attachments to the person designated in the affidavit as the person to file the recorded affidavit with the department under AS 28.10.262 - 28.10.264.

(d) In this section,

(1) "affidavit" means an affixation affidavit or a severance affidavit;

(2) "affixation affidavit" has the meaning given in AS 34.85.190;

(3) "manufactured home" has the meaning given in AS 45.29.102;

(4) "recorded affidavit" means an affidavit recorded under this section;

(5) "severance affidavit" has the meaning given in AS 34.85.190.

* **Sec. 28.** AS 45.10.220(2) is amended to read:

(2) "goods" means personal chattels purchased primarily for personal, family, or household use and not for commercial or business use, but does not include money or, except as provided in the next phrase, chose in action; "goods" includes [BUT IS NOT LIMITED TO] merchandise certificates or coupons issued by a retail seller to be used in their face amount instead of cash in exchange for goods or services sold by the seller and goods, **including a manufactured home**, that, at the time of sale or subsequently, are to be so affixed to real property as to become a part of it, whether or not severable from it; **in this paragraph, "manufactured home" has the meaning given in AS 45.29.102;**

* **Sec. 29.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Administration shall adopt regulations necessary to implement this Act. The regulations must take effect under AS 44.62 (Administrative Procedure Act) on January 1, 2010.

* **Sec. 30.** The uncoded law of the State of Alaska is amended by adding a new section to read:

SAVING CLAUSE. This Act may not be interpreted to impair a right or claim existing under law before January 1, 2010 of a person claiming an interest in a manufactured home. In this section, "manufactured home" has the meaning given in AS 45.29.102.

* **Sec. 31.** Section 29 of this Act takes effect immediately under AS 01.10.070(c).

* **Sec. 32.** Except as provided in sec. 31 of this Act, this Act takes effect January 1, 2010.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 19, 2009

SUBJECT: Sectional summary for SB 153 relating to manufactured homes
(Work Order No. 26-LS0650\R)

TO: Senator Hollis French
Attn: Cindy Smith

FROM:  Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. States the findings and purpose for the bill.

Section 2. Adds a new subsection to AS 06.05.207 of the banking code. Defines "real property" to include a manufactured home that has become real property under new sec. 34.85.010.

Section 3. Adds a new subsection to AS 06.15.250 of the mutual savings bank chapter. Defines "real property" to include a manufactured home that has become real property under new sec. 34.85.010.

Section 4. Amends AS 06.45.060(5)(A) of the credit union chapter to change "mobile home" to "manufactured home."

Section 5. Adds a new subsection to AS 06.45.060 of the credit union chapter to provide a definition of "manufactured home."

Section 6. Amends the definition of "mortgage loan" in AS 06.60.990(19) of the mortgage lending regulation chapter to include a manufactured home that has become real property under new sec. 34.85.010.

Section 7. Adds a new definition section to AS 09.45, the chapter relating to real property actions, to define "real property" to include a manufactured home that has become real property under new sec. 34.85.010 and to define "manufactured home."

Section 8. Amends AS 28.05.061(a), which relates to vehicle records, to list manufactured home documents as records that the Department of Administration is to file, maintain, and index.

Section 9. Adds new subsections to AS 28.05.061, which relates to vehicle records, to indicate what the department record must state for certain documents relating to manufactured homes. Defines "recording information" for AS 28.05.061.

Section 10. Amends AS 28.10.201(b) to reference a new subsection added by bill sec. 11 and to change "mobile home" to "manufactured home."

Section 11. Adds a new subsection to AS 28.10.201. Prohibits the department from issuing a certificate of title to a manufactured home if an application has been filed under secs. 28.10.262 - 28.10.264.

Section 12. Amends AS 28.10.211(c) to substitute "manufacturer's certificate of origin" for "manufacturer's statement of origin."

Section 13. Adds a new subsection to AS 28.10.211, relating to applications for vehicle titles. Allows the holder of a manufacturer's certificate of origin for a manufactured home to deliver the certificate to a person to facilitate the home's conveyance or encumbrance. The recipient holds it in trust.

Section 14. Adds a new subsection to AS 28.10.221, which relates to the refusal, suspension, or revocation of a vehicle title. Prohibits the department, with an exception for new sec. 28.10.263, from suspending or revoking a certificate of title to a manufactured home just because the home is affixed to real property.

Section 15. Adds a new subsection to AS 28.10.261, which relates to evidence. Makes a manufactured home's certificate of title issued by the department prima facie evidence of what it says, even if the home is affixed to real property.

Section 16. Adds new sections to AS 28.10.

Sec. 28.10.262. Directs the department to cancel a manufacturer's certificate of origin to a manufactured home if an application is filed and certain other conditions are met. States that when a person satisfies this section, the manufactured home is not subject to AS 28.10.

Sec. 28.10.263. Directs the department to cancel a certificate of title to a manufactured home if an application is filed and certain other conditions are met. States that when a person satisfies this section, the manufactured home is not subject to AS 28.10.

Sec. 28.10.264. Directs the department to confirm the conversion of a manufactured home to real property if an application is filed and certain other conditions are met. States that when a person satisfies this section, the manufactured home is not subject to AS 28.10.

Sec. 28.10.265. Directs the department to issue a certificate of title for a manufactured home if an application is filed and certain other conditions are met. States that when a person satisfies this section, the manufactured home is subject to AS 28.10.

Sec. 28.10.266. Lists what an application under secs. 28.10.262 - 28.10.265 must provide.

Sec. 28.10.267. Establishes the requirements for the declaration required by sec. 28.10.266(11) for an application under sec. 28.10.264 or 28.10.265.

Sec. 28.10.268. Indicates the time when the requirements of secs. 28.10.262 - 28.10.264 are considered to be satisfied if an application under one of those sections is delivered to the department within 30 days after an affixation affidavit is recorded.

Sec. 28.10.269. Defines terms for AS 28.10.201 - 28.10.269.

Section 17. Adds new subsections to AS 28.10.371, which relates to liens and encumbrances on vehicles, to address certain situations involving liens on manufactured homes.

Section 18. Adds a new subsection to AS 28.10.381, which relates to liens and encumbrances on vehicles, to generally prohibit cancelling certificates while a lien or encumbrance is outstanding, and to state that the validity and priority of the liens and encumbrances continue.

Section 19. Adds a new subsection to AS 28.10.391, which relates to liens and encumbrances on vehicles, to indicate that the liens and encumbrances of converted manufactured homes are governed by real property law.

Section 20. Amends AS 28.10.661(2) to define "mobile home" as a "manufactured home" for the chapter.

Section 21. Adds a new paragraph to AS 28.10.661 to define "manufactured home" for the chapter.

Section 22. Amends AS 29.45.070, which relates to municipal taxation, to reflect the conversion to real property allowed by the new chapter in AS 34.85.

Section 23. Amends AS 34.03.360 of the state's uniform residential landlord and tenant act to add a definition of "mobile home."

Section 24. Amends AS 34.70.200(3) of the chapter dealing with disclosures in residential real property transfers to include as residential real property manufactured homes that have become real property under AS 34.85.010.

Section 25. Amends AS 34.80.090(6) of the chapter that deals with escrow transactions for residential real property to include converted manufactured homes as residential real property.

Section 26. Adds a new chapter relating to converting manufactured homes to real property.

Sec. 34.85.010. Lists the criteria for a manufactured home to become real property.

Sec. 34.85.020. Describes the effects of converting a manufactured home to real property.

Sec. 34.85.040. Describes how the ownership interest requirement of sec. 34.85.010 can be satisfied when the manufactured home owner does not own the real property where the home is located.

Sec. 34.85.060. Establishes what an affixation affidavit must provide.

Sec. 34.85.070. Describes what an owner's statement required for an affixation affidavit must state.

Sec. 34.85.080. Indicates that permanently affixing a manufactured home to real property or recording an affixation affidavit does not affect liens and encumbrances on the manufactured home unless certain conditions are met.

Sec. 34.85.090. Directs the recipient of a certified copy of an affidavit to deliver the copy to the department under secs. 28.10.262 - 28.10.264.

Sec. 34.85.100. States that, except as provided by certain statutes, an affixation affidavit is not necessary or effective to convey or encumber a manufactured home or to change the character of a manufactured home to real property. Indicates what a conveyance of land on which a manufactured home is located must recite. Voids an agreement that waives this section.

Sec. 34.85.110. Directs each person having an interest in the real property from which a converted manufactured home is severed to record a severance affidavit.

Sec. 34.85.120. Establishes what a severance affidavit must contain or be accompanied by

Sec. 34.85.130. Directs the recipient of a certified copy of a severance affidavit to deliver the copy to the department under secs. 28.10.262 - 28.10.264.

Sec. 34.85.140. Requires an affixation affidavit and a severance affidavit to be acknowledged like real property conveyances and be in a recordable form. Directs the department to establish the forms for the affidavits.

Sec. 34.85.150. Establishes when a manufactured home is considered to be permanently affixed to real property.

Sec. 34.85.190. Defines terms for the new chapter.

Sec. 34.85.195. Gives the chapter a short title.

Section 27. Adds a new section to the state's chapter on the recording of real property documents. Directs the recorder to record an affixation affidavit and a severance affidavit if they meet specified requirements. Indicates what the recording officer must write on the recorded affidavit. Directs the recording officer to send a certified copy to the person designated in the affidavit.

Section 28. Amends the definition of "goods" in the Alaska Retail Installment Sales Act to include manufactured homes.

Section 29. Directs the Department of Administration to adopt regulations for this Act.

Section 30. Preserves rights and claims existing before January 1, 2010.

Section 31. Sets an immediate effective date for bill sec. 29, which authorizes the adoption of implementing regulations.

Section 32. Sets the effective date for all of the bill except bill sec. 29, which authorizes the adoption of implementing regulations.

If I may be of further assistance, please advise.

TLB:ljw
09-169.ljw

Written Testimony in Support of Alaska Senate Bill 153

Submitted by
Diane Cooper

Vice President, Servicing
Wells Fargo Home Mortgage
MAC K3214-030
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On behalf of Wells Fargo, I appreciate the opportunity to submit testimony in support of Alaska Senate Bill 153

SB-153 will amend state law in Alaska to provide a formal method of eliminating the certificate of title to a manufactured home and converting the home to real property when the home is or will be permanently affixed to real property, and obtaining a new certificate of title when a home previously affixed to real property is later physically severed from it.

Alaska, unlike the vast majority of states, has no formal statutory procedure for converting a manufactured home to real property. Under current Alaska law including Alaska's Uniform Commercial Code, a security interest in a manufactured home permanently affixed to land can be perfected only by noting the secured party's interest on the home's certificate of title and recording a deed of trust with a fixtures clause and an appropriate description of the home. The need for legislation arises from the fact that the Alaska Division of Motor Vehicles ("DMV") will not issue a title for a manufactured home that is affixed to a permanent foundation, notwithstanding the requirements of the Uniform Commercial Code, and has created and administers a vaguely defined procedure with no record notice. The result for many Alaska manufactured homeowners is an unmarketable title to their home and for many lenders an unperfected security interest in their collateral.

We feel the bill will: (1) Help manufactured homeowners in the state increase the value of their homes by allowing them to convert their manufactured homes to real property, including manufactured homes not covered by certificates of title (or for which the certificates of title cannot be found) but permanently affixed to real property before the effective date of the legislation; (2) Help lenders gain perfected security interests in manufactured homes; (3) Help the Alaska Division of Motor Vehicles by putting in place a formalized procedure for canceling a title when a manufactured home is put on a permanent foundation; and (4) Increase property tax revenue in the municipalities in Alaska that levy property taxes as the result of manufactured homes' being converted to and considered real property.



March 20, 2009

Senator French
Alaska State Legislature, State Capitol
Juneau, AK 99801

RE: SB-153 Manufactured Housing Conversion Procedure

Dear Senator French:

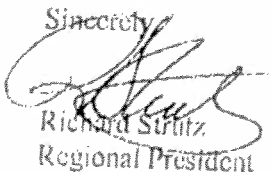
Wells Fargo is writing to support SB-153, the Manufactured Housing Conversion Procedure bill.

SB-153 will amend state law in Alaska to provide a formal method of eliminating the certificate of title to a manufactured home, converting the home to real property when the home is or will be permanently affixed to real property, and obtaining a new certificate of title when a home previously affixed to real property is severed.

Alaska is the only state that currently has no statutory conversion procedure. The need for legislation arises from the fact that the Alaska Division of Motor Vehicles ("DMV") will not issue a title for a manufactured home that is affixed to a permanent foundation, notwithstanding the requirements of the Uniform Commercial Code, and has created and administers a vaguely defined procedure with no record notice. The result for many Alaska manufactured homeowners is an unmarketable title to their home and for many lenders an unperfected security interest in their home.

We feel the bill will: (1) Help manufactured homeowners in the state increase the value of their home by allowing them to convert their manufactured homes into real property; (2) Help lenders gain a perfected security interest on manufactured homes; (3) Help the Alaska Division of Motor Vehicles by putting in place a formalized procedure for getting rid of a title when a manufactured home is put on a permanent foundation; and (4) Increase property tax revenue in the municipalities in Alaska that do levy property taxes as the result of manufactured homes being converted and considered real property.

Thank you for the opportunity to provide comment on SB-153.

Sincerely,

Richard Stritz
Regional President