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Changes in CS for Senate Bill 104 (JUD)

Section 27 of the bill, starting on page 20 of the legislation, was modified in the Judiciary committee substitute, responding to feedback received from the Department of Natural Resources recorder's office. The changes to Sec. 27 are as follows:

Sec. 40.17.125(a) was modified so that the recorder's office won't have to determine whether an affixation or severance affidavit meets requirements under sec. 34.85 in this legislation. Under AS 40.17.035, the recorder's office cannot be tasked with determining whether the contents of a document are legally sufficient to achieve the purposes of the document; instead, as clarified under regulation, the person submitting documents for recording must ensure that the prerequisites for recording as established by regulation and statute are met.

Sec. 40.17.125(b) received two minor changes in the CS. The first modifies the action taken by the recorder on the recording affidavit, changing 'write' to 'place' on page 20 line 30 of the legislation. This change reflects that the recording office no longer writes on recorded affidavits - instead, they affix bar codes that contain relevant information. In addition, the original draft required an affidavit to be recorded in land records; in the CS, Sec. 40.17.125(b) changes 'in land records' to 'the public record,' to match where the recorder files land records today.

Sec. 40.17.125(c) in the original draft (version \I) was removed in the CS. This language required the recorder's office to automatically send a certified copy of the recorded affidavit to a person designated on an affidavit. This doesn't match current recording office procedures, which require an individual to request and pay for certified copies of affidavits.

In regards to this last change, conforming amendments were made to Sec. 34.85.060(12) and Sec. 34.85.120(7) in Section 26 of the CS to remove references to the automatic mailing of a certified affidavit. In addition, sec 28.10.266(7) and sec. 28.10.266(8) of the CS, found in section 16 on page 10 of the legislation,

were modified to ensure that an affidavit complies with affixation requirements under sec. 34.85 of the legislation.

In section 16 of the legislation, the original draft required DMV to notify a primary lienholder of completed conversion procedures, in instances when the conversion involved cancelling a manufacturer's certificate of origin or title. Yet under sec. 28.10.267 of the legislation, a conversion cannot take place until a manufactured home is free and clear of all liens and encumbrances. Because a primary lienholder would never exist through a conversion procedure, the lienholder notification provisions were replaced in the CS with language that allows the applicant to indicate one person, in addition to the owner, that receives written acknowledgement of completed conversions under sec. 28.10.262-265. This change is reflected in sec. 28.10.262(c), 28.10.263(c), 28.10.264(d), 28.10.265(c) and 28.10.266(12) of the committee substitute.

If you have any questions about these changes, please contact Lisa Weissler in my office at 907-465-4923.