

SENATE BILL NO. 104

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY SENATOR FRENCH

Introduced: 3/16/11

Referred: State Affairs, 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

1 (2) severing manufactured homes from real property.

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

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

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

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

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

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

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

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

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

28 (iv) a loan or aggregate of loans to a director or member
29 of the supervisory or credit committee of the credit union making the
30 loan that exceeds \$20,000 plus pledged shares shall be approved by the
31 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(33) is amended to read:

5 (33) "residential mortgage loan" means a loan that is primarily for
6 personal, family, or household use and that is secured by a mortgage, deed of trust, or
7 other equivalent consensual security interest on a dwelling or residential real estate
8 located in the state; in this paragraph,

9 **(A) "manufactured home" has the meaning given in**
10 **AS 45.29.102;**

11 **(B) "residential real estate" means real property on which a**
12 **dwelling is constructed or intended to be constructed, including a**
13 **manufactured home that has become real property under AS 34.85.010;**

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

15 **Article 13. General Provisions.**

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

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

18 (2) "real property" includes a manufactured home that has become real
19 property under AS 34.85.010.

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

21 (a) The Department of Administration shall file, maintain, and appropriately
22 index records of

23 (1) vehicle registrations under AS 28.10.071(a) - (c);

24 (2) stolen, converted, recovered, and unclaimed vehicles under
25 AS 28.10.071(d);

26 (3) titles and documents creating and evidencing liens or
27 encumbrances under AS 28.10.381;

28 (4) abandoned vehicles under AS 28.11.030(c); [AND]

29 (5) driver's license and driving records under AS 28.15.151;

30 **(6) applications under AS 28.10.262 for cancellation of a**
31 **manufacturer's certificate of origin for a manufactured home;**

1 **(7) applications under AS 28.10.263 for cancellation of a certificate**
 2 **of title to a manufactured home;**

3 **(8) applications under AS 28.10.264 for confirmation of the**
 4 **nonapplication of AS 28.10 to a manufactured home;**

5 **(9) applications under AS 28.10.265 for a certificate of title to a**
 6 **severed manufactured home;**

7 **(10) manufacturer's certificates of origin accepted for cancellation**
 8 **by the department under AS 28.10.262 for a manufactured home; and**

9 **(11) certificates of title accepted for cancellation by the**
 10 **department under AS 28.10.263 for a manufactured home.**

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

12 (e) For cancelled manufacturer's certificates of origin, cancelled certificates of
 13 title, or applications for confirmation filed under (a)(8), (10), or (11) of this section,
 14 the department's record must state

15 (1) the name of each owner of the manufactured home;

16 (2) the date the manufacturer's certificate of origin or the certificate of
 17 title was accepted for cancellation if the certificate was cancelled under (a)(10) or (11)
 18 of this section; and

19 (3) the recording information for the affixation affidavit required by
 20 AS 28.10.266.

21 (f) For applications for certificates of title under (a)(9) of this section, the
 22 department's record must state the name of each owner of the manufactured home and
 23 the recording information for the severance affidavit recorded under AS 40.17.125.

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

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

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

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

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

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

10 (e) The department may not issue a certificate of title to a manufactured home
11 if an application for the manufactured home has been filed under AS 28.10.262 -
12 28.10.264.

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

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

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

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

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

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

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

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

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

1 **Sec. 28.10.262. Cancellation of manufacturer's certificate of origin for**
2 **manufactured home.** (a) If a manufactured home is permanently affixed to real
3 property under AS 34.85.150, or if the owner intends to permanently affix the
4 manufactured home to real property under AS 34.85.150, the owner may submit to the
5 department an application requesting that the department cancel the manufacturer's
6 certificate of origin for a manufactured home and update the department's records
7 under AS 28.05.061.

8 (b) The application under (a) of this section must comply with AS 28.10.266.

9 (c) Subject to AS 28.05.041, if the department is satisfied that the application
10 filed under (a) of this section complies with (b) of this section, the department shall
11 cancel the manufacturer's certificate of origin for the manufactured home, update the
12 department's records under AS 28.05.061, and issue a written acknowledgment that
13 the department has cancelled the certificate of origin under this section. The
14 department shall deliver the written acknowledgment to the owner of the
15 manufactured home and to the primary lienholder on the certificate of title to the
16 manufactured home if the department has issued a certificate of title to the
17 manufactured home and if a primary lienholder is named on the certificate of title.

18 (d) When the department has cancelled the manufacturer's certificate of origin
19 under (c) of this section, the manufactured home is not subject to this chapter.

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

21 (a) If a manufactured home is permanently affixed to real property under
22 AS 34.85.150, or if the owner intends to permanently affix the manufactured home to
23 real property under AS 34.85.150, the owner may submit to the department an
24 application requesting that the department cancel the certificate of title to a
25 manufactured home and update the department's records under AS 28.05.061.

26 (b) The application under (a) of this section must comply with AS 28.10.266.

27 (c) Subject to AS 28.05.041, if the department is satisfied that the application
28 filed under (a) of this section complies with (b) of this section and that there are no
29 outstanding liens or encumbrances filed against the manufactured home under
30 AS 28.10.381, the department shall cancel the certificate of title to the manufactured
31 home, update the department's records under AS 28.05.061, and issue a written

1 acknowledgment that the department has cancelled the certificate of title under this
 2 section. The department shall deliver the written acknowledgment to the owner of the
 3 manufactured home and to the primary lienholder on the certificate of title to the
 4 manufactured home if a primary lienholder is named on the certificate of title.

5 (d) When the department has cancelled a certificate of title under (c) of this
 6 section, the manufactured home is not subject to this chapter.

7 **Sec. 28.10.264. Confirmation of nonapplication of chapter.** (a) The owner
 8 of a manufactured home may submit an application to the department requesting that
 9 the department indicate on the department's records that the manufactured home is not
 10 subject to this chapter if

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

14 (2) the manufactured home

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

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

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

23 (b) The application under (a) of this section must comply with AS 28.10.266
 24 and be accompanied by a bond or cash deposit described in (c) of this section.

25 (c) The bond that accompanies the application under (b) of this section must
 26 be in the form prescribed by the department and executed by the applicant. The
 27 amount of the bond or cash deposit that accompanies the application under (b) of this
 28 section must be equal to one and one-half times the value of the manufactured home as
 29 determined by the department and must be conditioned to indemnify former owners,
 30 secured parties, and subsequent purchasers of the manufactured home and their
 31 successors against loss resulting from a defect in or undisclosed security interest on

1 the title of the applicant. An injured party may bring a court action against the bond or
2 cash deposit for a breach of the conditions of the bond or cash deposit, but the liability
3 of the bond surety or the department may not exceed the amount of the bond or cash
4 deposit. The department shall return the bond or cash deposit at the end of three years
5 after the submission under (b) of this section, except that service on the department of
6 notice that an action is pending against the bond or cash deposit extends that period
7 until 45 days after a final decision in the action on the bond or cash deposit.

8 (d) If the department is satisfied that the application filed under (a) of this
9 section complies with (b) of this section, the department shall, subject to
10 AS 28.05.041, indicate under AS 28.05.061 on the department's records that the
11 manufactured home is not subject to this chapter and shall provide to the owner a
12 written confirmation that the owner of the manufactured home has submitted an
13 application that complies with (b) of this section and that the manufactured home is
14 not subject to this chapter. The department shall deliver the written confirmation to the
15 owner of the manufactured home and to the primary lienholder on the certificate of
16 title to the manufactured home if the department has issued a certificate of title to the
17 manufactured home and if a primary lienholder is named on the certificate of title.

18 (e) When the department has provided a written confirmation under (d) of this
19 section, the manufactured home is not subject to this chapter.

20 **Sec. 28.10.265. Certificate of title to severed manufactured home.** (a) The
21 owner of a manufactured home may submit an application to the department
22 requesting that the department issue a certificate of title to a manufactured home and
23 update the department's records under AS 28.05.061 if

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

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

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

30 (b) The application under (a) of this section must comply with AS 28.10.266.

31 (c) Subject to AS 28.05.041, if the department is satisfied that the application

1 filed under (a) of this section complies with (b) of this section, the department shall
2 issue a certificate of title to the manufactured home under AS 28.10.231 - 28.10.241
3 and update the department's records under AS 28.05.061.

4 (d) When the department has issued a certificate of title under (c) of this
5 section, the manufactured home is subject to this chapter.

6 **Sec. 28.10.266. Application provisions.** An application under AS 28.10.262 -
7 28.10.265 must provide

8 (1) the name, residence, and mailing address of the owner of the
9 manufactured home;

10 (2) a description of the manufactured home, including the name of the
11 manufacturer, the make, the model name, the model year, the manufacturer's serial
12 number for the manufactured home, and other information required by the department
13 about the manufactured home;

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

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

18 (5) for an application under AS 28.10.262 - 28.10.264, the name and
19 address of any person who holds a lien or an encumbrance against the manufactured
20 home and the order of apparent priority;

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

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

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

28 (7) subject to AS 28.10.268, for an application under AS 28.10.262 -
29 28.10.264, a certified copy of the affixation affidavit recorded under AS 40.17.125 for
30 the manufactured home;

31 (8) for an application under AS 28.10.265, a certified copy of the

1 severance affidavit recorded under AS 40.17.125 for the manufactured home;

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

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

6 (11) for an application under AS 28.10.264 or 28.10.265, a declaration
7 that complies with AS 28.10.267; and

8 (12) other information and documents the department reasonably
9 requires

10 (A) to identify the owner of the manufactured home;

11 (B) to determine the existence or nonexistence of liens or
12 encumbrances on the manufactured home;

13 (C) for an application under AS 28.10.262 - 28.10.264, to
14 enable the department to determine whether the owner satisfied the applicable
15 requirements of AS 34.85.010; and

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

19 **Sec. 28.10.267. Declaration.** (a) The declaration required by
20 AS 28.10.266(11) must be made under oath or affirmation by an attorney authorized
21 under AS 08.08 to practice law in the state or an agent of a title insurance company
22 entitled under AS 21.66 to transact a title insurance business in this state.

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

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

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

31 **Sec. 28.10.268. Time of satisfaction.** If a person delivers an application under

1 AS 28.10.262 - 28.10.264 for a manufactured home to the department within 30 days
 2 after an affixation affidavit for the manufactured home is recorded under
 3 AS 40.17.125, and if the application is accepted by the department, the requirements
 4 of AS 28.10.262 - 28.10.264 are considered to be satisfied on the date the affixation
 5 affidavit is recorded, and, if the manufactured home is conveyed or encumbered on
 6 and after that date, the manufactured home shall be conveyed and encumbered as real
 7 property.

8 **Sec. 28.10.269. Definitions.** In AS 28.10.201 - 28.10.269, unless the context
 9 indicates otherwise,

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

12 (2) "severance affidavit" means a severance affidavit under
 13 AS 34.85.120.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (6) "residential real property" means real property on which there are

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

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

8 **Chapter 85. Manufactured Home Property Act.**

9 **Sec. 34.85.010. Real property characterization.** A manufactured home
 10 becomes real property if

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

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

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

16 (4) the manufactured home is

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

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

23 (C) not covered by a manufacturer's certificate of origin or a
 24 certificate of title, or if the manufactured home is covered by a manufacturer's
 25 certificate of origin or a certificate of title but the owner of the manufactured
 26 home, after diligent search and inquiry, was unable to produce the
 27 manufacturer's certificate of origin or certificate of title, and the department
 28 has provided a written confirmation under AS 28.10.264.

29 **Sec. 34.85.020. Effect of real property characterization.** (a) When a
 30 manufactured home becomes real property under AS 34.85.010, a mortgage, deed of
 31 trust, lien, or security interest that can attach to land, buildings erected on land, or

1 fixtures affixed to land or buildings attaches to the manufactured home in the same
2 manner as if the manufactured home were built from ordinary building materials on
3 the land where the manufactured home is located.

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

9 (c) When a manufactured home becomes real property under AS 34.85.010,
10 the manufactured home is governed by the laws applicable to real property in effect on
11 the date the manufactured home satisfies AS 34.85.010.

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

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

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

19 **Sec. 34.85.060. Affixation affidavit requirements.** An affixation affidavit
20 must provide

21 (1) the name of the manufacturer, the make, the model name, the
22 model year, the dimensions, and the manufacturer's serial number of the manufactured
23 home;

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

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

26 (A) the owner of the real property described in the affixation
27 affidavit; or

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

30 (i) is in possession of the real property under a lease in
31 recordable form that has a term that continues for at least 20 years after

- 1 the date of execution of the affidavit; and
- 2 (ii) the lessor of the real property consents;
- 3 (4) if (3)(B)(ii) of this section applies, the consent of the lessor of the
- 4 real property endorsed on or attached to the affidavit and acknowledged or proved in
- 5 the manner required for the conveyance to be recorded;
- 6 (5) the street address and the legal description of the real property to
- 7 which the manufactured home is or shall be permanently affixed;
- 8 (6) if the manufactured home is not covered by a certificate of title, a
- 9 statement by the owner to that effect;
- 10 (7) an owner's statement under AS 34.85.070;
- 11 (8) a statement whether or not the manufactured home is subject to a
- 12 lien or encumbrance;
- 13 (9) if the manufactured home is subject to a lien or encumbrance, a
- 14 statement giving the name and address of each person who holds a lien or
- 15 encumbrance on the manufactured home, including each holder of a lien or
- 16 encumbrance shown on a certificate of title issued by the department, the original
- 17 principal amount secured by each lien and encumbrance, and a statement that
- 18 (A) the lien or encumbrance shall be released; or
- 19 (B) each lien or encumbrance on the manufactured home has
- 20 been released and proof of the release;
- 21 (10) if the manufactured home is not covered by a manufacturer's
- 22 certificate of origin or a certificate of title, a statement by the owner of the
- 23 manufactured home that the manufactured home is not covered by a manufacturer's
- 24 certificate of origin or a certificate of title and that the owner of the manufactured
- 25 home will apply to the department under AS 28.10.264;
- 26 (11) a statement that the manufactured home is or will be permanently
- 27 affixed to the real property; and
- 28 (12) the name and address of a person designated for filing the
- 29 certified copy of the affixation affidavit with the department to whom the recording
- 30 officer shall return a certified copy of the affixation affidavit after the affixation
- 31 affidavit has been recorded under AS 40.17.125.

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

3 (b) If a manufactured home is covered by a manufacturer's certificate of
4 origin, the owner of the manufactured home shall

5 (1) state that the manufactured home is covered by a manufacturer's
6 certificate of origin, provide the date the manufacturer's certificate of origin was
7 issued, provide the manufacturer's serial number, state that the original manufacturer's
8 certificate of origin for the manufactured home is annexed to the affixation affidavit
9 and is endorsed to the owner of the manufactured home, and state that the owner of the
10 manufactured home will surrender the manufacturer's certificate of origin for
11 cancellation under AS 28.10.262; or

12 (2) state that the owner of the manufactured home, after diligent search
13 and inquiry, has been unable to produce the original manufacturer's certificate of
14 origin for the manufactured home and shall apply to the department under
15 AS 28.10.264.

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

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

21 (2) state that the owner, after diligent search and inquiry, has been
22 unable to produce the certificate of title to the manufactured home and shall apply to
23 the department under AS 28.10.264.

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

30 **Sec. 34.85.090. Filing affidavit with department.** When a person designated
31 in an affidavit to file the affidavit with the department receives a certified copy of the

1 recorded affidavit, the person shall deliver the certified copy of the affidavit to the
2 department for filing under AS 28.10.262 - 28.10.264.

3 **Sec. 34.85.100. Use of affidavit.** (a) Except as provided in AS 34.85.010,
4 34.85.020, 34.85.090, and AS 40.17.125, an affixation affidavit is not necessary or
5 effective to convey or encumber a manufactured home or to change the character of a
6 manufactured home to real property.

7 (b) A conveyance of land on which a manufactured home is located must
8 recite that the conveyance does not affect the title to the manufactured home and that
9 the transfer or encumbrance of the manufactured home can only be made under
10 AS 28.10 if

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

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

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

16 **Sec. 34.85.110. Severance of manufactured home.** If an affixation affidavit
17 has been recorded for a converted manufactured home and if the converted
18 manufactured home is severed from the real property to which it was affixed, each
19 person having an interest in the real property shall record a severance affidavit in the
20 recording district where the affixation affidavit was recorded.

21 **Sec. 34.85.120. Severance affidavit.** The severance affidavit must contain or
22 be accompanied by

23 (1) the name, residence, and mailing address of the owner of the
24 manufactured home;

25 (2) a description of the manufactured home, including the name of the
26 manufacturer, the make, the model name, the model year, the dimensions, and the
27 manufacturer's serial number of the manufactured home;

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

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

31 (5) a statement

1 (A) of any facts or information known to the person signing the
2 affidavit that could reasonably affect the validity of the title to the
3 manufactured home or the existence or nonexistence of a lien or encumbrance
4 on the manufactured home; or

5 (B) that the person signing the affidavit does not know any
6 facts or information that could reasonably affect the validity of the title to the
7 manufactured home or the existence or nonexistence of a lien or encumbrance
8 on the manufactured home;

9 (6) a declaration made under oath or affirmation by an attorney
10 authorized under AS 08.08 to practice law in the state or an agent of a title insurance
11 company entitled under AS 21.66 to transact a title insurance business in this state that
12 the manufactured home is free and clear of all liens and encumbrances, and

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

17 (B) that the attorney or agent does not know any facts or
18 information that could reasonably affect the validity of the title to the
19 manufactured home or the existence or nonexistence of a lien or encumbrance
20 on the manufactured home; and

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

25 **Sec. 34.85.130. Filing of severance affidavit.** On receipt of a certified copy of
26 the severance affidavit by the person designated in the affidavit for filing with the
27 department, the person shall file the certified copy with the department under
28 AS 28.10.262 - 28.10.264.

29 **Sec. 34.85.140. Affidavit form and acknowledgment.** (a) An affixation
30 affidavit and a severance affidavit must be acknowledged in the same manner as a
31 conveyance of real property and must be in a form that may be recorded under

1 AS 40.17.

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

4 **Sec. 34.85.150. Permanently affixed.** A manufactured home is permanently
5 affixed when it is

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

7 (2) constructed in accordance with applicable state and local building
8 codes and manufacturer's specifications as provided in the Model Manufactured Home
9 Installation Standards of the federal Department of Housing and Urban Development
10 (24 C.F.R. 3285); and

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

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

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

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

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

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

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

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

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

26 **Sec. 40.17.125. Recording affidavits related to manufactured homes.** (a) A
27 recorder shall record an affixation affidavit and a severance affidavit if the affidavit
28 meets the requirements for recording under AS 40.17.030, meets the requirements for
29 the affidavit under AS 34.85, and is offered for recording in the recording district
30 where the real property to which the manufactured home affixed is located.

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

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

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

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

7 (d) In this section,

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

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

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

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

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

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

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

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

25 TRANSITION: REGULATIONS. The Department of Administration shall adopt
26 regulations necessary to implement this Act. The regulations must take effect under AS 44.62
27 (Administrative Procedure Act) on January 1, 2012.

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

30 SAVING CLAUSE. This Act may not be interpreted to impair a right or claim
31 existing under law before January 1, 2012, of a person claiming an interest in a manufactured

- 1 home. In this section, "manufactured home" has the meaning given in AS 45.29.102.
- 2 * **Sec. 31.** Section 29 of this Act takes effect immediately under AS 01.10.070(c).
- 3 * **Sec. 32.** Except as provided in sec. 31 of this Act, this Act takes effect January 1, 2012.