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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 347

- 01/19/2017 Authored by Koznick, Metsa, Schultz and Runbeck
- The bill was read for the first time and referred to the Committee on Transportation and Regional Governance Policy
- 03/09/2017 Adoption of Report: Amended and re-referred to the Committee on Civil Law and Data Practices Policy
- 03/15/2017 Adoption of Report: Placed on the General Register
- Read for the Second Time
- 05/22/2017 Pursuant to Rule 4.20, returned to the Committee on Civil Law and Data Practices Policy

1.1 A bill for an act

1.2 relating to motor vehicles; regulating transfers of manufactured homes when

1.3 ownership is at issue; proposing coding for new law in Minnesota Statutes, chapter

1.4 168A.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2016, section 168A.141, is amended to read:

1.7 **168A.141 MANUFACTURED HOME AFFIXED TO REAL PROPERTY.**

1.8 Subdivision 1. **Certificates surrendered for cancellation.** (a) When a manufactured

1.9 home is to be affixed or is affixed, as defined in section 273.125, subdivision 8, paragraph

1.10 (b), to real property, ~~and financed by the giving of a mortgage on the real property~~, the

1.11 owner of the manufactured home ~~shall~~ may surrender the manufacturer's certificate of origin

1.12 or certificate of title to the department for cancellation. ~~The owner of~~ so that the manufactured

1.13 home ~~shall give the department the address and legal description of the~~ becomes an

1.14 improvement to real property. ~~The department may require the filing of other information~~

1.15 and is no longer titled as personal property. The department must not issue a certificate of

1.16 title for a manufactured home under chapter 168A if the manufacturer's certificate of origin

1.17 is or has been surrendered under this subdivision, except as provided in section 168A.142.

1.18 Upon surrender of the manufacturer's certificate of origin or the certificate of title, the

1.19 department shall issue notice of surrender to the owner, and upon recording an affidavit of

1.20 affixation, which the county recorder or registrar of titles, as applicable, shall accept, the

1.21 manufactured home is deemed to be an improvement to real property. ~~The notice of surrender~~

1.22 ~~may be recorded in the office of the county recorder or with the registrar of titles if the land~~

1.23 ~~is registered but need not contain an acknowledgment.~~ An affidavit of affixation by the

1.24 owner of the manufactured home must include the following information:

2.1 (1) the name, residence address, and mailing address of owner or owners of the
2.2 manufactured home;

2.3 (2) the legal description of the real property in which the manufactured home is, or will
2.4 be, located;

2.5 (3) a copy of the surrendered manufacturer's certificate of origin or certificate of title
2.6 and the notice of surrender;

2.7 (4) a written statement from the county auditor or county treasurer of the county where
2.8 the manufactured home is located stating that all property taxes payable in the current year,
2.9 as provided under section 273.125, subdivision 8, paragraph (b), have been paid, or are not
2.10 applicable;

2.11 (5) the name and address of the person designated by the applicant to record the original
2.12 affidavit of affixation with the county recorder or registrar of titles for the county where the
2.13 real property is located;

2.14 (6) the signature of the person who executes the affidavit, properly executed before a
2.15 person authorized to authenticate an affidavit in this state;

2.16 (7) the person designated in clause (5), shall record, or arrange for the recording of, the
2.17 affidavit of affixation, accompanied by the fees for recording and for issuing a certified
2.18 copy of the notice, including all attachments, showing the recording date; and

2.19 (8) upon obtaining the certified copy of the notice under clause (7), the person designated
2.20 in the affidavit shall deliver the certified copy to the county auditor of the county in which
2.21 the real property to which the manufactured home was affixed is located.

2.22 (b) The department is not liable for any errors, omissions, misstatements, or other
2.23 deficiencies or inaccuracies in documents presented to the department under this section,
2.24 if the documents presented appear to satisfy the requirements of this section. The department
2.25 has no obligation to investigate the accuracy of statements contained in the documents.

2.26 Subd. 1a. **Affidavit form.** The affidavit referred to in subdivision 1 shall be in
2.27 substantially the following form and shall contain the following information.

2.28 **MANUFACTURED HOME AFFIDAVIT OF AFFIXATION**

2.29 PURSUANT TO MINNESOTA STATUTES, SECTION 168A.141

2.30 Homeowner, being duly sworn, on his or her oath, states as follows:

2.31 1. Homeowner owns the manufactured home ("home") described as follows:

2.32

3.1		<u>Manufacturer's</u>	<u>Model Name or</u>	<u>Manufacturer's</u>	
3.2	<u>New/Used</u>	<u>Year</u>	<u>Name</u>	<u>Model No.</u>	<u>Serial No.</u>
					<u>Length/Width</u>

3.3 2. A copy of the surrendered manufacturer's certificate of origin or certificate of title is
 3.4 attached hereto.

3.5 3. A copy of the notice of surrender issued from the Minnesota Department of Public Safety
 3.6 Driver and Vehicle Services is attached hereto.

3.7 4. The home is or will be located at the following "Property Address":

3.8
 3.9 Street or Route City County State Zip Code

3.10 5. The legal description of the property address ("land") is as follows or as attached hereto:

3.11
 3.12
 3.13

3.14 6. The homeowner is the owner of the land.

3.15 7. The home is, or shall be promptly upon delivery, anchored to the land by attachment to
 3.16 a permanent foundation and connected to appropriate residential utilities (e.g., water, gas,
 3.17 electricity, sewer).

3.18 8. The homeowner intends that the home be an immovable permanent improvement to the
 3.19 land, free of any personal property security interest.

3.20 9. A copy of the written statement from the county auditor or county treasurer of the county
 3.21 in which the manufactured home is then located, stating that all property taxes payable in
 3.22 the current year (pursuant to Minnesota Statutes, section 273.125, subdivision 8, paragraph
 3.23 (b)), have been paid, or are not applicable, is attached hereto.

3.24 10. The home shall be assessed and taxed as an improvement to the land.

3.25 11. The name and address of the person designated by the homeowner to record the original
 3.26 affidavit of surrender with the county recorder or registrar of titles of the county in which
 3.27 the real estate is located is:

3.28 Name
 3.29 Street Address
 3.30 City, State, Zip Code
 3.31 Phone
 3.32 E-mail

4.1 IN WITNESS WHEREOF, homeowner(s) have executed this affidavit on this day of
4.2, 20...

4.3

4.4 Homeowner Signature Address

4.5

4.6 Printed Name City, State

4.7

4.8 Homeowner Signature (if applicable)

4.9

4.10 Printed Name

4.11 This instrument was drafted by, and when recorded return to:

4.12

4.13

4.14

4.15 Subscribed and sworn to before me this day of,

4.16

4.17 Signature of Notary Public or Other Official

4.18 Notary Stamp or Seal

4.19 (optional)

4.20 Lender's Statement of Intent:

4.21 The undersigned ("lender") intends that the home be immovable and a permanent
4.22 improvement to the land free of any personal property security interest.

4.23

4.24 Lender

4.25 By:

4.26 Authorized Signature

4.27 STATE OF

4.28) ss:

4.29 COUNTY OF

4.30 On the day of in the year before me, the undersigned, a Notary Public in and
4.31 for said state, personally appeared

4.32

5.1 personally known to me or proved to me on the basis of satisfactory evidence to be the
 5.2 individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged
 5.3 to me that he/she/they executed the same in his/her/their capacity(ies), and that by
 5.4 his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of
 5.5 which the individual(s) acted, executed the instrument.

5.6 _____

5.7 Notary Signature

5.8 _____

5.9 Notary Printed Name

5.10 Notary Public, State of _____

5.11 Qualified in the County of _____

5.12 My commission expires _____

5.13 Official seal:

5.14 Subd. 2. **Perfected security interest ~~avoids cancellation~~ prevents surrender.** The
 5.15 department may not cancel a certificate of title if, under this chapter a security interest has
 5.16 been perfected on the manufactured home. If a security interest has been perfected, the
 5.17 department shall notify the owner and that each secured party ~~that the~~ must release or satisfy
 5.18 the security interest prior to proceeding with surrender of the manufacturer's certificate of
 5.19 origin or certificate of title and a description of the security interest have been surrendered
 5.20 to the department and that the department will not cancel the certificate of title until the
 5.21 security interest is satisfied for cancellation. Permanent attachment to real property or the
 5.22 recording of an affidavit of affixation does not extinguish an otherwise valid security interest
 5.23 in or tax lien on the manufactured home, unless the requirements of section 168A.141
 5.24 subdivisions 1, 1a, and 2, including the release of any security interest, have been satisfied.

5.25 Subd. 3. **Notice of security interest ~~avoids surrender~~.** ~~The manufacturer's certificate~~
 5.26 ~~of origin or the certificate of title need not be surrendered to the department under subdivision~~
 5.27 ~~4~~ When a perfected security interest exists, or will exist, on the manufactured home at the
 5.28 time the manufactured home is affixed to real property, if and the owner has not satisfied
 5.29 the requirements of section 168A.141 subdivision 1, the owner of the manufactured home
 5.30 files, or its secured party, may record a notice with the county recorder, or with the registrar
 5.31 of titles, if the land is registered, stating that the manufactured home located on the property
 5.32 is encumbered by a perfected security interest and is not an improvement to real property.
 5.33 The notice must state the name and address of the secured party as set forth on the certificate
 5.34 of title, the legal description of the real property, and the name and address of the record
 5.35 fee owner of the real property on which the manufactured home is affixed. When the security

6.1 interest is released or satisfied, the secured party shall attach a copy of the release or
 6.2 satisfaction to a notice executed by the secured party containing the county recorder or
 6.3 registrar of titles document number of the notice of security interest. The notice of release
 6.4 or satisfaction must be ~~filed~~ recorded with the county recorder, or registrar of titles, if the
 6.5 land is registered. Neither the notice described in this subdivision nor the security interest
 6.6 on the certificate of title is deemed to be an encumbrance on the real property. The notices
 6.7 provided for in this subdivision need not be acknowledged.

6.8 Sec. 2. Minnesota Statutes 2016, section 168A.142, is amended to read:

6.9 **168A.142 MANUFACTURED HOME UNAFFIXED FROM REALTY.**

6.10 Subdivision 1. **Certificate of title requirements.** The department shall issue an initial
 6.11 certificate of title or reissue a previously surrendered certificate of title for a manufactured
 6.12 home to an applicant if:

6.13 (1) ~~for the purpose of affixing the manufactured home to real property,~~ the owner of the
 6.14 manufactured home, or a previous owner, surrendered the manufacturer's certificate of
 6.15 origin or certificate of title to the department as provided in section 168A.141, subdivision
 6.16 1 ~~or 2~~;

6.17 (2) the applicant provides the written proof evidence specified in subdivision 2 ~~that the~~
 6.18 ~~applicant owns (i) the manufactured home and (ii) the real property to which the~~
 6.19 ~~manufactured home was affixed as provided under section 273.125, subdivision 8, paragraph~~
 6.20 ~~(b)~~;

6.21 ~~(3) the applicant provides proof that no liens exist on the manufactured home, including~~
 6.22 ~~liens on the real property to which it is affixed; and~~

6.23 ~~(4)~~ (3) the owner of the manufactured home ~~meets~~ fulfills the applicable application
 6.24 requirements of section 168A.04₂; and

6.25 (4) the application is accompanied by a written statement from the county auditor or
 6.26 county treasurer of the county in which the manufactured home is then located and affixed,
 6.27 stating that all property taxes payable in the current year, as provided under section 273.125,
 6.28 subdivision 8, paragraph (b), have been paid.

6.29 Subd. 2. **Proof Evidence of eligibility for reissuance.** (a) The proof evidence required
 6.30 under subdivision 1, ~~clauses~~ clause (2) ~~and (3)~~, is as follows:

6.31 (1) an affidavit of severance recorded in the office of the county recorder or registrar of
 6.32 titles, which they shall accept, and whichever applies to the real property, of the county ~~in~~

7.1 ~~which~~ where the affidavit of affixation or notice of surrender was recorded ~~under~~ as required
7.2 in section 168A.141, subdivision 1, and the affidavit of severance contains:

7.3 (i) the name, residence address, and mailing address of the owner or owners of the
7.4 manufactured home;

7.5 (ii) a description of the manufactured home being severed, including the name of the
7.6 manufacturer; ~~the make, model number, model year, and dimensions, and if available, the~~
7.7 make, model year, and manufacturer's serial number of the manufactured home; and whether
7.8 the manufactured home is new or used, and such information as may be available from the
7.9 previously recorded affidavit of affixation or notice of surrender as required in section
7.10 168A.141, subdivision 1; and

7.11 (iii) a statement of any facts or information known to the person executing the affidavit
7.12 that could affect the validity of the title of the manufactured home ~~or~~, ~~the existence or~~
7.13 ~~nonexistence of a security interest in the manufactured home or a lien on it, or~~, and a
7.14 statement that no such facts or information are known to the person executing the affidavit;

7.15 (2) as an attachment to the affidavit of severance, an opinion by an attorney admitted to
7.16 practice law in this state, stating:

7.17 (i) the nature of the examination of title performed prior to giving this opinion by the
7.18 person signing the opinion;

7.19 (ii) that the manufactured home and the real property on which it is located is not subject
7.20 to, or pending completion of a refinance, purchase, or sale transaction, and will not be
7.21 subject to any recorded mortgages, security interests, liens, or other encumbrances of any
7.22 kind;

7.23 (iii) that the person signing the opinion knows of no facts or circumstances that could
7.24 affect the validity of the title of the manufactured home or the existence or nonexistence of
7.25 any recorded mortgages, security interests, or other encumbrances of any kind, other than
7.26 property taxes payable in the year the affidavit is signed;

7.27 (iv) the person or persons owning record title to the real property to which the
7.28 manufactured home has been affixed and the nature and extent of the title owned by each
7.29 of these persons; and

7.30 (v) that the person signing the opinion has reviewed all provisions of the affidavit of
7.31 severance and certifies that they are correct and complete to the best of the knowledge of
7.32 the person signing the opinion;

8.1 (3) the name and address of the person or persons designated by the applicant to file a
 8.2 ~~certified copy of the original~~ affidavit of severance with ~~the county auditor of the county~~
 8.3 ~~in which the real estate is located, after the affidavit has been properly recorded in the office~~
 8.4 ~~of the county recorder or county registrar of titles, whichever applies to the real property;~~
 8.5 and

8.6 (4) the signature of the person who executes the affidavit, properly executed before a
 8.7 person authorized to authenticate an affidavit in this state.

8.8 (b) The person designated in paragraph (a), clause (3), shall record, or arrange for the
 8.9 recording of, the affidavit of severance as referenced in that item, accompanied by the fees
 8.10 for recording and for issuing a certified copy of the affidavit, including all attachments,
 8.11 showing the recording date.

8.12 (c) Upon obtaining the certified copy under paragraph (b), the person designated in the
 8.13 affidavit shall deliver the certified copy to the county auditor of the county in which the
 8.14 real estate to which it was affixed is located.

8.15 (d) The department is not liable for any errors, omissions, misstatements, or other
 8.16 deficiencies or inaccuracies in documents presented to the department under this section,
 8.17 so long as the documents presented appear to satisfy the requirements of this section. The
 8.18 department has no obligation to investigate the accuracy of statements contained in the
 8.19 documents.

8.20 Subd. 3. Affidavit form. The affidavit referred to in subdivision 2 shall be in substantially
 8.21 the following form and shall contain the following information.

8.22 **MANUFACTURED HOME AFFIDAVIT OF SEVERANCE**

8.23 **PURSUANT TO MINNESOTA STATUTES, SECTION 168A.142**

8.24 Homeowner, being duly sworn, on his or her oath, states as follows:

8.25 1. Homeowner owns the manufactured home ("home") described as follows:

8.26

		<u>Manufacturer's</u>	<u>Model Name or</u>	<u>Manufacturer's</u>	
<u>New/Used</u>	<u>Year</u>	<u>Name</u>	<u>Model No.</u>	<u>Serial No.</u>	<u>Length/Width</u>

8.29 2. A copy of the previously surrendered manufacturer's certificate of origin or certificate of
 8.30 title is attached hereto (if available).

8.31 3. A copy of the notice of surrender issued from the Minnesota Department of Public Safety
 8.32 Driver and Vehicle Services is attached hereto (if available).

9.1 4. The home is or will be located at the following "Property Address":

9.2

9.3 Street or Route City County State Zip Code

9.4 5. The legal description of the property address ("land") is as follows or as attached hereto:

9.5

9.6

9.7

9.8 6. The homeowner does not know of any facts or information that could affect the validity
9.9 of title of the manufactured home, except:

9.10

9.11

9.12 7. The homeowner does not know of any such security interest in the manufactured home
9.13 which has not been satisfied or released.

9.14 8. A copy of an opinion by an attorney admitted to practice law in Minnesota is attached,
9.15 which provides for the required title evidence as set forth in Minnesota Statutes, section
9.16 168A.142 subdivision (2), clause (2), items (i) to (v).

9.17 9. A copy of the written statement from the county auditor or county treasurer of the county
9.18 in which the manufactured home is then located, stating that all property taxes payable in
9.19 the current year (pursuant to Minnesota Statutes, section 273.125, subdivision 8, paragraph
9.20 (b)), have been paid, or are not applicable, is attached hereto.

9.21 10. The name and address of the person designated by the homeowner to record the original
9.22 affidavit of surrender with the county recorder or registrar of titles of the county in which
9.23 the real estate is located is:

9.24 Name

9.25 Street Address

9.26 City, State, Zip Code

9.27 Phone

9.28 E-mail

9.29 IN WITNESS WHEREOF, homeowner(s) have executed this affidavit on this day of
9.30, 20...

9.31

9.32 Homeowner Signature Address
9.33

9.34 Printed Name City, State

10.1

10.2 Homeowner Signature (if applicable)

10.3

10.4 Printed Name

10.5 This instrument was drafted by, and when recorded return to:

10.6

10.7

10.8 Subscribed and sworn to before me this day of,

10.9

10.10 Signature of Notary Public or Other Official

10.11 Notary Stamp or Seal

10.12 **Sec. 3. [168A.143] MANUFACTURED HOMES; OWNERSHIP AT ISSUE.**

10.13 Subdivision 1. Requirements for certificate issuance or reissuance. When an applicant
10.14 is unable to obtain from or locate previous owners no longer holding an interest in the
10.15 manufactured home based on a certificate of title, or to locate, obtain, or produce the original
10.16 certificate of origin or certificate of title for a manufactured home, and there is no evidence
10.17 of a surrendered certificate of title or manufacturer's statement of origin as provided in
10.18 section 168A.141, subdivision 1, which has not otherwise been unaffixed or is being
10.19 unaffixed as provided in section 168A.142, the department must issue or reissue, a certificate
10.20 of title to a manufactured home when the applicant submits:

10.21 (1) the application, pursuant to the requirements of section 168A.04, in a form prescribed
10.22 by the department;

10.23 (2) an affidavit that:

10.24 (i) identifies the name of the manufacturer and dimensions, and if available, the make,
10.25 model number, model year, and manufacturer's serial number of the manufactured home;
10.26 and

10.27 (ii) certifies the applicant is the owner of the manufactured home, has physical possession
10.28 of the manufactured home, knows of no facts or circumstances that materially affect the
10.29 validity of the title of the manufactured home as represented in the application, and provides
10.30 copies of such ownership documents, so far as the documents exist, including by way of
10.31 example:

10.32 (A) bill of sale;

- 11.1 (B) financing, replavin, or foreclosure documents;
- 11.2 (C) appraisal;
- 11.3 (D) insurance certification;
- 11.4 (E) personal property tax bill;
- 11.5 (F) landlord certification;
- 11.6 (G) affidavit of survivorship or estate documents;
- 11.7 (H) divorce decree; or
- 11.8 (I) court order;
- 11.9 (3) an affidavit by an attorney admitted to practice law in this state stating:
- 11.10 (i) the attorney has performed a search of the Minnesota Department of Public Safety
- 11.11 Driver and Vehicles Services records within 120 days of the date of application to obtain a
- 11.12 certificate of origin or certificate of title on behalf of the applicant, but was unable to
- 11.13 determine the names or locations of one or more owners or prior owners of the manufactured
- 11.14 home;
- 11.15 (ii) if applicable, the attorney was unable to successfully contact one or more owners,
- 11.16 or prior owners, after providing written notice 45 days prior to the registered and last known
- 11.17 owner by certified mail at the address shown on Driver and Vehicles Services records, or
- 11.18 if the last known address is different from Driver and Vehicles Services records, then also
- 11.19 the last known address as known to the applicant;
- 11.20 (iii) if the attorney is unable to contact one or more owners, or previous owners, by
- 11.21 sending a letter by certified mail, then the attorney must present to the department, as an
- 11.22 attachment to its affidavit, the returned letter as evidence of the attempted contact, or the
- 11.23 acknowledgement of receipt of the letter, together with an affidavit of nonresponse; and
- 11.24 (iv) the attorney knows of no facts or circumstances that materially affect the validity
- 11.25 of the title of the manufactured home as represented in the application, other than property
- 11.26 taxes payable in the year the affidavit is signed; and
- 11.27 (4) payment for required current year taxes and fees as prescribed by the department.
- 11.28 **Subd. 2. Satisfaction of manufactured home security lien; release.** A security interest
- 11.29 perfected under this chapter may be canceled seven years from the perfection date for a
- 11.30 manufactured home, upon the request of the owner of the manufactured home, if the owner
- 11.31 has paid the lien in full or the lien has been abandoned and the owner is unable to locate

12.1 the lienholder to obtain a lien release. The owner must send a letter to the lienholder by
12.2 certified mail, return receipt requested, stating the reason for the release and requesting a
12.3 lien release. If the owner is unable to obtain a lien release by sending a letter by certified
12.4 mail, then the owner must present to the department the returned letter as evidence of the
12.5 attempted contact, or the acknowledgement of receipt of the letter, together with a copy of
12.6 the letter and an owner affidavit of nonresponse.

12.7 Subd. 3. **Suspension or revocation of certificate.** (a) Pursuant to section 168A.23, the
12.8 department may revoke a previously issued certificate of title issued under this section.

12.9 (b) The department is not liable for any errors, omissions, misstatements, or other
12.10 deficiencies or inaccuracies in documents submitted to the department under this section,
12.11 provided the documents submitted appear to satisfy the requirements of this section. The
12.12 department is not required to investigate the accuracy of statements contained in submitted
12.13 documents.