Sixty-first Legislative Assembly of North Dakota

Introduced by

1 A BILL for an Act

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BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

3 **SECTION 11.** Section 47-10-26 of the North Dakota Century Code is created and 4 enacted as follows:

47-10-26. Manufactured homes - Affixation to real property - Conveyance or encumbrance as real property.

- 1. For purposes of this section, "manufactured home" means a manufactured home as defined in section 41-09-02. Notwithstanding this definition, for purposes of 11 U.S.C. 1322(b)(2), a manufactured home is deemed real property. For purposes of this section, a manufactured home is permanently affixed if the manufactured home is anchored to real property by attachment to a permanent foundation; constructed in accordance with applicable state and local building codes and manufacturer's specifications as provided in title 24, code of federal regulations, Part 3285; and connected to residential utilities, such as water, gas, electricity, or sewer or septic service.
- 2. To convey or voluntarily encumber a manufactured home as real property, the following conditions must be met:
 - a. The manufactured home must be permanently affixed to real property;
 - b. The ownership interests in the manufactured home and the real property to which the manufactured home is or will be permanently affixed must be identical, provided, however, that the owner of the manufactured home, if not the owner of the real property, is in possession of the real property under the terms of a lease in recordable form that has a term that continues for at least

1		twei	ity years after the date of execution and the consent of the lessor of the			
2		<u>real</u>	property;			
3	<u>C.</u>	The	The person having an ownership interest in the manufactured home executes			
4		and	records with the recorder of the county in which the real property is			
5		loca	ted an affidavit of affixation as provided in subsection 3 and satisfies the			
6		othe	other applicable requirements of this section; and			
7	<u>d.</u>	<u>Upo</u>	Upon receipt of a recorded copy of the affidavit of affixation under			
8		subs	subsection 5, any person designated in the affidavit for filing with the			
9		depa	artment of transportation files the recorded copy of the affidavit of			
10		affix	ation with the department of transportation, except that:			
11		<u>(1)</u>	In a circumstance described in item 1 of subparagrarph a of			
12			paragraph 4 of subdivision a of subsection 3, the recorded copy of the			
13			affidavit of affixation and the original manufacturer's certificate of origin,			
14			each as recorded in the county in which the real property is located,			
15			must be filed with the department of transportation under subsection 1			
16			of section 39-05-35;			
17		<u>(2)</u>	In a circumstance described in item 1 of subparagraph b of paragraph 4			
18			of subdivision a of subsection 3, the recorded copy of the affidavit of			
19			affixation, as recorded in the county in which the real property is			
20			located, and the original certificate of title must be filed with the			
21			department of transportation under subsection 2 of section 39-05-35;			
22			<u>and</u>			
23		<u>(3)</u>	In a circumstance described in item 2 of subparagraph a of paragraph 4			
24			of subdivision a of subsection 3, item 2 of subparagraph b of			
25			paragraph 4 of subdivision a of subsection 3, or paragraph b of			
26			subdivision a of subsection 3, the recorded copy of the affidavit of			
27			affixation, as recorded in the county in which the real property is			
28			located, and an application for confirmation of conversion must be filed			
29			with the department of transportation under subsection 3 of section			
30			<u>39-05-35.</u>			
31	<u>3. a.</u>	<u>An a</u>	An affidavit of affixation must contain or be accompanied by:			

1	<u>(1)</u>	The name of the manufacturer, the make, the model name, the model				
2		year, the dimensions, the manufacturer's serial number of the				
3		manufactured home, and whether the manufactured home is new or				
4		used;				
5	<u>(2)</u>	(a)	A sta	tement that the party executing the affidavit is the owner of		
6			the re	eal property described in the affidavit; or		
7		<u>(b)</u>	IF no	t the owner of the real property:		
8			<u>[1]</u>	A statement that the party executing the affidavit is in		
9				possession of the real property under the terms of a lease		
10				in recordable form that has a term that continues for at		
11				least twenty years after the date of execution of the		
12				affidavit; and		
13			<u>[2]</u>	The consent of the lessor of the real property endorsed		
14				upon or attached to the affidavit and acknowledged or		
15				proved in the manner as to entitle a conveyance to be		
16				recorded;		
17		<u>(3)</u>	The s	street address and the legal description of the real property		
18			to wh	ich the manufactured home is or will be permanently affixed;		
19	<u>(4)</u>	<u>(a)</u>	IF the	e manufactured home is not covered by a certificate of title, a		
20			stater	ment by the owner to that effect, and either:		
21			[<u>1</u>]	A statement by the owner of the manufactured home that		
22				the manufactured home is covered by a manufacturer's		
23				certificate of origin, the date the manufacturer's certificate		
24				of origin was issued, the manufacturer's serial number, and		
25				a statement that annexed to the affidavit of affixation is the		
26				original manufacturer's certificate of origin for the		
27				manufactured home, duly endorsed to the owner of the		
28				manufactured home, and that the owner of the		
29				manufactured home will surrender the manufacturer's		
30				certificate of origin to the department of transportation; or		

Sixty-first Legislative Assembly

1			[<u>2]</u>	A statement that the owner of the manufactured home,
2				after diligent search and inquiry, is unable to produce the
3				original manufacturer's certificate of origin for the
4				manufactured home and the owner of the manufactured
5				home will apply to the department of transportation for a
6				confirmation of conversion of the manufactured home; or
7		<u>(b)</u>	If the	manufactured home is covered by a certificate of title,
8			<u>eithei</u>	<u>r:</u>
9			[<u>1</u>]	A statement by the owner of the manufactured home that
10				the manufactured home is covered by a certificate of title,
11				the date the title was issued, the title number, and that the
12				owner of the manufactured home will surrender the title; or
13			[<u>2.</u>]	A statement that the owner of the manufactured home,
14				after diligentt search and inquiry, is unable to produce the
15				certificate of title for the manufactured home and that the
16				owner of the manufactured home will apply to the
17				department of transportation for a confirmation of
18				conversion of the manufactured home;
19	<u>(5)</u>	A sta	temen	t whether the manufactured home is subject to one or more
20		secur	ity inte	erests or liens and:
21		<u>(a)</u>	<u>IF a r</u>	nanufactured home is subject to one or more security
22			intere	ests or liens, the name and address of each party holding a
23			secur	rity interest in or lien on the manufactured home, including
24			<u>each</u>	holder shown on any certificate of title issued by the
25			depa	rtment of transportation, the original principal amount
26			secur	red by each security interest or lien, and a statement that the
27			secur	rity interest or lien will be released; or