

1 A BILL for an Act

2 **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:

5 **47-10-26. Manufactured homes - Affixation to real property - Conveyance or**
6 **encumbrance as real property.**

- 7 1. For purposes of this section, "manufactured home" means a manufactured home
8 as defined in section 41-09-02. Notwithstanding this definition, for purposes of
9 11 U.S.C. 1322(b)(2), a manufactured home is deemed real property. For
10 purposes of this section, a manufactured home is permanently affixed if the
11 manufactured home is anchored to real property by attachment to a permanent
12 foundation; constructed in accordance with applicable state and local building
13 codes and manufacturer's specifications as provided in title 24, code of federal
14 regulations, Part 3285; and connected to residential utilities, such as water, gas,
15 electricity, or sewer or septic service.
- 16 2. To convey or voluntarily encumber a manufactured home as real property, the
17 following conditions must be met:
- 18 a. The manufactured home must be permanently affixed to real property;
19 b. The ownership interests in the manufactured home and the real property to
20 which the manufactured home is or will be permanently affixed must be
21 identical, provided, however, that the owner of the manufactured home, if not
22 the owner of the real property, is in possession of the real property under the
23 terms of a lease in recordable form that has a term that continues for at least

- 1 twenty years after the date of execution and the consent of the lessor of the
2 real property;
- 3 c. 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 located an affidavit of affixation as provided in subsection 3 and satisfies the
6 other applicable requirements of this section; and
- 7 d. Upon receipt of a recorded copy of the affidavit of affixation under
8 subsection 5, any person designated in the affidavit for filing with the
9 department of transportation files the recorded copy of the affidavit of
10 affixation with the department of transportation, except that:
- 11 (1) In a circumstance described in item 1 of subparagraph 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 (2) 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 and
- 23 (3) 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 39-05-35.
- 31 3. a. An affidavit of affixation must contain or be accompanied by:

- 1 [2] 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 (b) If the manufactured home is covered by a certificate of title,
8 either:
- 9 [1] 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 [2.] A statement that the owner of the manufactured home,
14 after diligent 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 (5) A statement whether the manufactured home is subject to one or more
20 security interests or liens and:
- 21 (a) IF a manufactured home is subject to one or more security
22 interests or liens, the name and address of each party holding a
23 security interest in or lien on the manufactured home, including
24 each holder shown on any certificate of title issued by the
25 department of transportation, the original principal amount
26 secured by each security interest or lien, and a statement that the
27 security interest or lien will be released; or